

Memorandum

To: Members of the Task Force Education and Workforce
From: Lindsay Russell Dexter, Director, Education and Workforce
Date: June 18, 2015
Re: 35-Day Mailing – 2015 Annual Meeting

The American Legislative Exchange Council Annual Meeting will take place July 22-24 at the Manchester Grand Hyatt, San Diego, CA.

Education Subcommittee Meeting

Wednesday, July, 22 2015
8:30 a.m. – 11:20 a.m.

Joint Education and Tax Subcommittee

Wednesday, July 22, 2015
11:20 a.m. – 12:00 a.m.

Education Task Force Meeting

Thursday, July 23, 2015
2:30 p.m. – 5:30 p.m.

Enclosed Materials:

- Tentative Agenda for the Education Subcommittee Meeting
- Tentative Agenda for the Task Force on Education Meeting
- Task Force on Education Proposed Model Policy for Consideration
- Annual Meeting Agenda-at-a-Glance

As a reminder, the attached is not official ALEC model policy until it passes both the Task Force on Education and the ALEC National Board of Director.

I look forward to seeing everyone in San Diego, CA! To ensure a successful and productive meeting, please review all information and model policy. If you have any questions feel free to contact me at lrussell@alec.org or 208-250-6366.

Sincerely,

Lindsay Russell Dexter
Director, Education and Workforce Development

Task Force on Education and Workforce Development Tentative
Subcommittee Meeting Agenda

Annual Meeting 2015 | San Diego,
California Wednesday, July 22, 2015
8:30 – 11:20 AM

Task Force Chairs:

Senator Howard Stephenson, *Utah*, and Mr. Jonathan Butcher, *Goldwater Institute*

8:30 a.m. Call to Order

Welcome and Introductions

Approval of Minutes from Spring Task Force Summit

8:35 a.m. Model Policy Presentation and Review

1. *Dual Language Immersion Act*
2. *1:1 Device Initiative Driven by Outcomes Act*

9:00 a.m. Presentation

'Addressing the Disclosure of Research Supported by Public Funds and Data'

9:20 a.m. Presentation

'Crash Course: EdReformU and the History of the Laws that Built a Movement'

9:40 a.m. Model Policy Presentation and Review

1. *Charter School Authorizing and Accountability Act*
2. *Charter School Funding and Facilities Act*
3. *Charter School Operations and Autonomy*

10:20 a.m. Presentation

'Problems in Suburbia: Why Middle-Class Students Need School Choice, Digital Learning and Better Options'

10:40 a.m. Presentation

'A Plan to Change Public Education'

11:00 a.m. Model Policy Amendment Presentation and Review

1. *Parental Choice Scholarship Program Act*
2. *Great Schools Tax Credit Program Act*
3. *Educational Savings Accounts Act*

11:20 a.m. Good of the Order/Adjournment

To access an electronic copy of these documents, please
visit:

<http://www.alec.org/task-forces/education/>

Task Force on Education and Workforce Development
Tentative Meeting Agenda

Annual Meeting 2015 | San Diego, California
Thursday, July 23, 2015
2:30 - 5:30 PM

Task Force Chairs:

Senator Howard Stephenson, *Utah*, and Mr. Jonathan Butcher, *Goldwater Institute*

- 2:30 p.m. Call to Order**
Welcome and Introductions
Approval of Minutes from Spring Task Force Summit
- 2:35p.m. Recognition and Award Presentation, Former Public Sector Chair**
Representative Greg Forristall, Iowa
- 2:40 p.m. Legislative Roundtable**
'Educational Savings Accounts'
- 3:20 p.m. Model Policy and Voting**
1. *Charter School Authorizing and Accountability Act*
2. *Charter School Funding and Facilities Act*
3. *Charter School Operations and Autonomy Act*
- 4:00 p.m. Presentation**
'Doing Less with Much Less and Getting More: Transforming American Higher Education'
- 4:20 p.m. Model Policy Amendments Presentation and Voting**
1. *Parental Choice Scholarship Program Act*
2. *Great Schools Tax Credit Program Act*
3. *Educational Savings Accounts Act*
- 4:50 p.m. Model Policy and Voting**
1. *Dual Language Immersion*
2. *1:1 Device Initiative Driven by Outcomes*

5:30 p.m. **Good of the Order/Adjournment**

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Digital Teaching and Learning Program {Utah}

Summary

This bill creates the Digital Teaching and Learning Program for public schools, a qualifying grant program for local education agencies (LEA), to improve student outcomes through the use of digital teaching and learning technology and educator professional development.

Legislation

Section 1. {Definitions}

(A) "Advisory committee" means the Digital Teaching and Learning Advisory Committee.

(B) "Board" means the State Board of Education {Utah}.

(C) "Core subject areas" means the following subject areas:

(1) English language arts;

(2) Mathematics;

(3) Science; and

(4) Social studies.

(D) "Education consultant" means the person selected by the UETN board.

(E) "Education technology provider" means a person selected by the UETN board.

(F) "Educator" means an individual who holds or is required to hold a license, under Title 52A, Chapter 6, Educator Licensing and Professional Practices Act.

(G) "High quality professional learning" means a comprehensive, sustained, and intensive approach to improving educator effectiveness in raising student achievement and improving the school level outcomes that meet the professional learning standards described below.

(H) "Independent evaluator" means the person selected by the board.

(I) "LEA plan" means an LEA's plan to implement the program.

(J) "Local education agency" or "LEA" means:

(1) A school district;

(2) A charter school; or

(3) The {Utah} Schools for the Deaf and the Blind.

(K) "Master plan" means the master plan developed by the UETN board, with final approval of the board.

- 30 (L) "Program" means the Digital Teaching and Learning Program described in this part.
- 31 (M) "Qualifying LEA" means an LEA identified by the UETN board as eligible to receive a grant through
- 32 the program.
- 33 (N) "Statewide assessment" means a criterion-referenced test of student achievement in English
- 34 language arts, mathematics, or science, including a test administered in a computer adaptive
- 35 format, which is administered statewide under Part 6, Achievement Tests {Utah}.
- 36 (O) "{Utah} Education and Telehealth Network" or "UETN" means the {Utah} Education and Tele- health
- 37 Network created in Section 53B-17-105.

38 **Section 2. {Digital Teaching and Learning Program}**

- 39 (A) There is created the Digital Teaching and Learning Program, a qualifying grant program for qualifying
- 40 LEAs, to improve student outcomes through the use of digital teaching and learning technology and
- 41 educator professional development.

42 **Section 3. {Digital Teaching and Learning Program Advisory Committee}**

- 43 (A) There is created the Digital Teaching and Learning Program Advisory Committee to:
- 44 (1) Assist the UETN board with developing selection criteria for and selecting the education
- 45 consultant described in Section 4; and
- 46 (2) Provide input on the development of the master plan described in Section 5.

- 47 (B) The advisory committee shall consist of:

- 48 (1) The following members appointed by the UETN board:
- 49 (a) One member who has extensive digital educational content experience related to
- 50 curriculum and learning standards;
- 51 (b) One member who is:
- 52 (i) An assistant superintendent for curriculum and instruction; or

(ii) A principal who has extensive experience with a technology program;

(c) One member who has extensive experience with mobile device and connectivity infrastructure;

(d) One member with demonstrated change leadership or change management expertise;

(e) One member who is a teacher recognized as a leader in implementing a technology program;

(f) One member who has extensive experience in independent program evaluation of technology initiatives;

(g) One member who has extensive experience and demonstrated leadership in college and career readiness;

(h) One member who represents business with expertise in the state requirements for a skilled workforce;

(i) One member who is a technology expert from an urban LEA;

(j) One member who is a technology expert from a rural LEA;

(k) One member of the Senate; and

(l) One member of the House of Representatives;

(m) The executive director of the UETN; and

(n) The state superintendent of public instruction.

72 (C) The UETN board shall weigh heavily an individual's reputation as a national leader in the
73 individual's area of expertise when appointing the members described in Subsections (B) (1) (a) (d) (e)
74 (g) (h).

75 (D) When a vacancy occurs in the membership of the advisory committee appointed under
76 Subsection (B) (1), for any reason, the UETN board shall appoint a replacement member who
77 meets the same criteria as the vacated member.

78 (E) The executive director of UETN and the state superintendent of public instruction shall
79 serve as co- chairs for the advisory committee.

80 (F) The advisory committee shall meet when a meeting of the advisory committee is called by
81 an advisory committee chair.

82 (G) (1) A quorum of the advisory committee is eight members.

83 (2) Approval by the greater of the following is required to constitute an action of the
84 advisory committee:

85 (a) A majority of the members present at an advisory committee meeting; or

86 (b) Seven members.

87 (H) A member may not receive compensation or benefits for the member's service, but may
88 receive per diem and travel expenses in accordance with:

89 (1) Section 63A-3-106;

90 (2) Section 63A-3-107; and

91 (3) Rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-
92 107.

93 (I) UETN staff shall staff the advisory committee.

94 **Section 4. {Education consultant – Education technology providers – Monitoring student**
95 **usage of technology}**

96 (A) (1) On or before June 30, 2015, in consultation with the board and the advisory
97 committee, the UETN board shall select, through a request for proposals process, a single
98 education consultant with integrated whole-school learning and teaching technology
99 deployment experience.

100 (2) The education consultant shall advise the board, the UETN board, and the advisory
101 committee as provided in this part, including consulting with the board, the UETN
102 board,
103 and the advisory committee in:

104 (a) The development of the master plan under Section 5;

105 (b) The selection of education technology providers under Subsection (B);

106 (c) The development of LEA plans; and

107 (d) The review and approval of LEA plans under Section 6.

108 (3) The education consultant may not be selected as an education technology provider
109 or

110 assist any person in responding to a request for proposals described in Subsection (B).

111 (B) (1) In consultation with the board and the education consultant, the UETN board shall,
112 through a prequalification process described in Section 63G-6a-403, identify prequalified
113 education technology providers that a qualifying LEA may select to work with to implement
114 the program by providing the following goods or services:

115 (a) Wireless network infrastructure or infrastructure related to digital teaching
Digital Teaching and Learning Program Act

- 116 and learning;
- 117 (b) Hardware related to digital teaching and learning, including laptop
- 118 computers or mobile devices;
- 119 (c) Digital licensed and unlicensed content, resources, and programs to
- 120 accelerate student learning in mobile digital teaching and learning;
- 121 (d) Software that provides a digital learning platform that:
- 122 (i) Is modular and integrated via an open standards architecture;
- 123 (ii) Provides a classroom, school, and system-wide digital assessment
- 124 system that tracks student progress against the state standards of
- 125 learning established by the board;
- 126 (iii) Includes comprehensive digital curriculum mapping, assessment,
- 127 and performance data aggregation and related reporting that is
- 128 accessible to students, teachers, administrators, and parents;
- 129 (iv) Includes collaboration and communication tools and integration via
- 130 applicable interoperability standards; and
- 131 (v) Is capable of integrating with the state's or LEA's student
- 132 information
- 133 system;
- 134 (e) Technology support services; or

(f) Professional learning for educators, administrators, and support staff related to the program.

(2) A person who responds to the request for a statement of qualifications under the prequalification process described in Subsection (B)(1) shall submit:

(a) A list of products and services the person can provide as an education technology provider;

(b) A proposal on how the person's products or services meet:

(i) The criteria described in Subsection (B)(1); and

(ii) The goals and criteria of the state's master plan described in Section 5; and

(c) A disclosure of all exclusive financial arrangements with education publishers, other education technology providers, or education companies.

(C) In evaluating a statement of qualifications under the prequalification process described in Subsection (B)(1), the UETN board's evaluation criteria shall weigh heavily the person's ability to prepare and customize the person's products or services to meet the objectives of a participating LEA's LEA plan.

(D) In prequalifying the education technology providers under Subsection (B), the UETN board shall prequalify education technology providers that allow an LEA to:

(1) Select an education technology provider to assist in the development and implementation of an LEA plan under Section 53A-1-1209; or

(2) Select specific products or services provided by one or more education technology providers.

157 (E) After identifying prequalified education technology providers as described in Subsection
158 (B), the UETN board shall follow the request for proposals process described in Title 63G,
159 Chapter 6a, {Utah} procurement Code {Utah}, to select education technology providers from
160 the prequalified education technology providers identified in Subsection (B).

161 (F) The UETN board shall ensure that:

162 (1) A contract with an education technology provider selected under this section will
163 include a performance accountability section; and

164 (2) The performance accountability section described in Subsection (F)(1) defines:

165 (a) Penalties or consequences, if the qualifying LEA, using the services of the
166 education technology provider selected under this section, does not meet
167 student performance out- come benchmarks described in Subsection 53A-1-
168 1208(6); and

169 (b) Requirements that a qualifying LEA shall meet for the education technology
170 provider selected under this section to receive compensation.

171 (G) Annually, within 30 days of the publication of results on a statewide assessment, the
172 UETN board shall publish a report detailing the correlation of the use of each education
173 technology provider's products and services selected under this section and the student
174 academic achievement, as measure by the student results on a statewide assessment.

175 (H) (1) The UETN board shall select, through a request for proposals process, one or more
176 education technology providers to provide licenses for software that monitors student usage
177 of technology in qualifying LEA schools.

(2) In evaluating education technology provider proposals submitted in response to the request for proposals described in Subsection (H)(1), the UETN board shall ensure that the evaluation criteria weigh heavily the extent to which the software:

(a) Monitors, in detail, application usage and website access of all student computing devices that are purchased with program money;

(b) Allows public access to aggregate student device utilization data at the state, school district, and school level;

(c) Protects student data from being accessed by unauthorized users; and

(d) When used, is compliant with the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

(I) (1) The UETN board shall distribute a license for the software described in Subsection (H) to a qualifying LEA.

(2) A qualifying LEA shall install the software described in Subsection (H) on a device used by a student.

(J) In a contract with an education technology provider described in this section, the UETN board and a qualifying LEA shall:

(1) Require an education technology provider to use student information received as part of providing services to the UETN board, board, or qualifying LEA, strictly for the

purpose of providing the contracted services to the UETN board, board, or qualifying
LEA; and

(2) Prohibit an education technology provider from:

(a) Using student information received as part of providing services to the

UETN

board, board, or qualifying LEA, for a use not described in the contract;

(b) Collecting student information that is unrelated to the services the

education

technology provider is required to perform pursuant to a contract with the

UETN board, board of qualifying LEA; or

Section 5. {Master plan}

(A) (1) In consultation with the board, the education consultant, and the advisory
committee, the UETN board shall develop a master plan for the program to integrate the
program into the state's public education system.

(2) The UETN board shall submit the master plan to the board for final approval.

(B) Consistent with this part, the master plan shall include:

(1) A statement of purpose that describes the objectives or goals the UETN board will
accomplish by implementing the program;

(2) A forecast for fundamental components of the program, including a forecast for:

(a) Student and teacher devices;

- 218 (b) Wi-Fi and wireless compatibility technology;
- 219 (c) Curriculum software;
- 220 (d) Assessment solutions;
- 221 (e) Technical support;
- 222 (f) Change management of LEAs;
- 223 (g) Professional development;
- 224 (h) Internet delivery and capacity; and
- 225 (i) Security and privacy of users;
- 226 (3) A determination of the requirement for:
- 227 (a) Statewide technology infrastructure; and
- 228 (b) Local LEA technology infrastructure;
- 229 (4) Standards for high quality professional learning related to implementing and
- 230 maintaining the program;
- 231 (5) A detailed definition of at least one type of device to be used by LEAs and
- 232 distributed
- 233 to educators and students;
- 234 (6) A statewide technical support plan that will guide the implementation and
- 235 maintenance of the program, including standards and competency requirements for
- 236 technical support personnel;

(7) A grant program for qualifying LEAs developed in accordance with Section 6;

(8) Specifications for an LEA plan that include:

(a) Format and submission requirements; and

(b) Other LEA plan requirements, including the requirements described in
Section 53A-1-1209;

(9) An inventory of the state public education system's current technology resources,
including software, and a plan to integrate those resources into the program;

(10) An ongoing evaluation process that is:

(a) Overseen by the board;

(b) Performed by the independent evaluator selected in Section 53A-1-1210;

and

(c) Based on the criteria described in Section 53A-1-1210;

(11) Proposed rules that incorporate the principles of the master plan into the state's
public education system as a whole; and

(12) A plan to ensure long-term sustainability that:

(a) Accounts for the financial impacts of the program; and

(b) Facilitates the redirection of the LEA savings that arise from implementing
the program.

(C) The UETN board shall integrate into the master plan privacy and security requirements of:

(1) Federal law;

(2) Sections 53A-13-301 and 53A-13-302; and

(3) Rules developed by the board.

(D) The UETN board shall complete the master plan on or before December 1, 2015.

Section 6. {Digital Teaching and Learning Grant Program – Grant money uses}

(A) (1) In accordance with this part, the UETN board, in consultation with the board and the advisory committee, shall identify LEAs that qualify to receive a grant described in this section.

(2) The board shall distribute grant money to a qualifying LEA:

(a) Identified by the UETN board as a qualifying LEA; and

(b) In accordance with the distribution requirements of Section 53A-1-1208.

(B) (1) The UETN board may only approve an LEA's grant application and designate the LEA as a qualifying LEA if:

(a) The LEA's LEA plan complies with the requirements described in

Section 53A-1-1209;

(b) The UETN board determines that the LEA's LEA plan is rigorous and

complete; and

(c) At least 11 members of the advisory committee vote in favor of approving

the LEA's.

(2) The advisory committee shall:

276 (a) Keep a record of advisory committee member votes for and against
277 approval
278 of each LEA plan, including the name of each advisory committee member
279 who
280 voted for or against each LEA plan; and
281 (b) Publish the record of advisory committee member votes described in
282 Subsection (B)(2)(a) on a website accessible by:
283 (i) The UETN board;
284 (ii) The board;
285 (iii) An LEA and
286 (iv) A member of the public.
287 (C) The UETN board shall condition a grant on:
288 (1) UETN board approval of the LEA's plan;
289 (2) Satisfactory progress toward achieving the participating LEA's LEA plan objectives,
290 goals, and outcomes;
291 (3) The LEA providing matching funds as described in Subsection (E); and
292 (4) Completion by the qualifying LEA of any UETN board requirement specific to
293 receiving
294 the grant award.
295 (D) (1) An LEA grant applicant shall submit an LEA plan to the UETN board for approval.

(2) The UETN board shall:

(a) Review applicant LEA plans;

(b) Identify qualifying LEAs to receive grant money; and

(c) (i) Approve the LEA plans of qualifying LEAs; or

(ii) Make recommendations to LEAs on how to improve LEA plans.

(E) (1) A qualifying LEA shall use grant money to contract with one or more of the technology providers identified by the UETN board in Section 4.

(2) A qualifying LEA may contract with an education technology provider that was not identified by the UETN board as a prequalified education technology provider under Section 53A-1-1206; if:

(a) The education technology provider proposed in the LEA's LEA plan meets the

criteria described in Subsection 4(B);

(b) The LEA had a contract or other relationship with the education technology provider prior to the LEA submitting the LEA's LEA plan; and

(c) The LEA's contract or other relationship with the education technology provider proposed in the LEA plan was created in compliance with Title 63G, Chapter 6a, {Utah} Procurement Code.

(F) A qualifying LEA may not use grant money:

(1) To supplant money previously used for the LEA's existing technology program;
Digital Teaching and Learning Program Act

(2) To fund nontechnology programs;

(3) To purchase mobile telephones; or

(4) To fund voice or data plans for mobile telephones.

Section 7. {Distribution of grant money to qualifying LEAs}

(A) The board shall distribute money appropriated for the program to qualifying LEAs as described in this section.

(B) (1) The amount available to distribute to qualifying charter schools is an amount equal to the product of:

(a) Enrollment on October 1 in the prior year at charter schools statewide,

divided by enrollment on October 1 in the prior year in public schools

statewide;

and

(b) The total amount available for distribution under this section.

(2) The board shall distribute to qualifying charter schools the amount available for distribution to qualifying charter schools:

(a) In proportion to each qualifying charter school's enrollment as a

percentage

of the total enrollment in qualifying charter schools; or

(b) As determined by the State Charter School Board and approved by the

board.

336 (C) The board shall distribute grant money to the {Utah} Schools for the Deaf and the Blind in
337 an amount equal to the product of:

338 (1) Enrollment on October 1 in the prior year at the {Utah} Schools for the Deaf and the
339 Blind, divided by enrollment on October 1 in the prior year in public schools statewide;
340 and

341 (2) The total amount available for distribution under this section.

342 (D) Of the funds available for distribution under this section after the allocation of funds for
343 the {Utah} Schools for the Deaf and the Blind and qualifying charter schools, the board shall
344 distribute grant money to qualifying LEAs that are school districts as follows:

345 (1) The board shall distribute two-thirds of the total funding available for qualifying
346 LEAs
347 that are school districts to the qualifying LEAs according to a funding formula adopted
348 by
349 the board that considers:

350 (a) The property tax effort of the school district, giving more funding to a
351 school

352 district making a high tax effort; and

353 (b) The school district's ability to generate property tax revenue based on
354 the per-student taxable value of property within the boundary of the school
355 district, giving more funding to a school district with low taxable value per-

student; and

(2) The board shall distribute one-third of the total funding available for qualifying LEAs that are school districts to the qualifying LEAs as follows:

(a) 10 percent of the funds shall be distributed on an equal basis; and

(b) The remaining 90 percent of the funds shall be distributed to the qualifying LEAs on a per-student basis.

(E) (1) Subject to the provisions of Subsections (E)(2) and (3), each LEA has an opportunity to receive an amount of money equal to the amount of money that the LEA would receive in year one of the program if the LEA's LEA plan had been approved in year one as described in Section 6.

(2) If an LEA's LEA plan is not approved during year one of the program, the board shall deposit the LEA's allocation of program money described in Subsection (E)(1) into a separate account that is non-lapsing.

(3) The board shall advise an LEA the LEA's allocation of the year on program money in

a

subsequent year of the program if:

(a) The LEA's LEA plan was not approved during year one of the program; and

(b) In the subsequent year, the LEA's LEA plan is approved as described in

Section 6.

375 (E) (1) The board shall set minimum improvement benchmark standards in the school level
376 outcomes described in Subsection (8)(A) that an LEA shall use to establish the LEA's minimum
377 improvement benchmarks described in Subsection (8)(D).

378 (2) The board may only distribute the following money to a qualifying LEA in year two
379 and subsequent years if the qualifying LEA meets the minimum improvement
380 benchmarks set in the qualifying LEA's LEA plan:

- 381 (a) For a qualifying LEA that is a charter school, one-third of the money the
382 qualifying LEA would receive from a distribution described in Subsection (B);
383 (b) For a qualifying LEA that is the {Utah} Schools for the Deaf and the Blind,
384 one-third of the money the {Utah} Schools for the Deaf and the Blind
385 would receive from a distribution described in Subsection (C); and
386 (c) For a qualifying LEA that is a school district, the money the qualifying LEA
387 would receive from a distribution described in Subsection (D)(2).

388 (3) When setting the minimum improvement benchmark standards described in
389 Subsection (E)(1) for year two, the board shall require an LEA to give substantially equal
390 weight to:

- 391 (a) The extent to which the qualifying LEA follows, and complies with, the
392 qualifying LEA's LEA plan; and

- 393 (b) The extent to which the school level and student academic outcomes

described in Subsections (8)(A)(2) and (8)(A)(3).

(4) When setting the minimum improvement benchmark standards described in Subsection (E)(1) for year three and subsequent years, the board shall require an LEA's minimum improvement benchmarks to be based solely on the school level outcomes as defined in Subsections (8)(A)(2) and (8)(A)(3).

(F) If a qualifying LEA fails to meet the minimum improvement benchmarks included in the qualifying LEA's LEA plan and loses the qualifying LEA's distribution described in Subsection (E)(2), the qualifying LEA may resubmit the qualifying LEA's LEA plan for approval, including goals to improve student performance and meet the minimum improvement benchmarks in the LEA plan.

(G) Beginning with year four of the program, the board shall proportionately decrease a qualifying LEA's funding under this section:

- (1) If only a percentage of the qualifying LEA's students participate in the program; and
- (2) By an amount equal to the percentage of the qualifying LEA's students that do not participate in the program.

Section 8. {LEA plans}

(A) An LEA plan submitted to the UETN board for participation in the program shall include:

- (1) A statement of purpose that describes the learning objectives, goals, and measurable

outcomes the LEA will accomplish by implementing the program;

(2) Design criteria that enable the LEA to improve the following school level outcomes:

(a) Student achievement on statewide assessments; and

(b) Cost savings and improved efficiency relating to instructional materials,

facilities, and maintenance;

(3) In addition to the required school level outcomes described in Subsection (A)(2),

design criteria that enable the LEA to improve other school level outcomes, including:

(a) Attendance,

(b) Discipline incidents;

(c) Parental involvement;

(d) Citizen involvement;

(e) Graduation rates;

(f) Student enrollment in higher education;

(g) Dropout rates;

(h) Student technology proficiency for college and career readiness; and

(i) Teacher satisfaction and engagement;

(4) An implementation process structured to yield the desired outcomes;

(5) A plan for infrastructure acquisition;

432 (6) A process for procurement and distribution of the goods and services the LEA
433 intends

434 to use as part of the LEA's implementation of the program;

435 (7) A description necessary high quality, digital instructional materials aligned with
436 UETN

437 board standards;

438 (8) A detailed plan for student engagement in personalized learning;

439 (9) Technical support standards for implementation and maintenance of the program
440 that:

441 (a) Include support for hardware and Internet access; and

442 (b) Remove technical support burdens from the classroom teacher;

443 (10) Proposed security policies, including security audits and remediation of identified
444 lapses;

445 (11) An inventory of the LEA's current technology resources, including software, and a
446 description of how the LEA will integrate those resources into the LEA's
447 implementation

448 of the program;

449 (12) A disclosure by the LEA of the LEA's current technology expenditures;

450 (13) A description of how the LEA will:

451 (a) Provide high quality professional learning for educators, administrators,

452 and

453 support staff participating in the program, including ongoing periodic coaching;

454 (b) Provide special education students with appropriate software; and

455 (c) Meet other criteria established by the UETN board; and

456 (14) Except as provided in Subsection (C), an assurance that the LEA will implement the

457 program in an entire school at a time and not introduce the program into schools in a

458 partial manner.

459 (B) An LEA shall include the LEA's proposed implementation of the program over multiple

460 years in the LEA plan.

461 (C) (1) An LEA is not required to implement the program an entire school at a time in an

462 elementary school.

463 (2) An LEA is not required to implement the program in kindergarten through grade 4.

464 (D) An LEA plan shall include minimum improvement benchmarks in the school level

465 outcomes described in Subsections (A)(2) and (A)(3):

466 (1) That the LEA will be required to meet for the LEA to continue to:

467 (a) Receive funding described in Subsection 7(E)(2); and

468 (b) Participate in the program in years three and on; and

469 (2) In accordance with the minimum improvement benchmark standards developed by

the board in Subsection 7(E).

(E) As part of the LEA's LEA plan, an LEA may propose to contract with an education technology provider that was not identified by the UETN board as a prequalified education technology provider under Subsection 4(B) if:

(1) The education technology provider proposed in the LEA's LEA plan meets the criteria

described in Subsection 4(B);

(2) The LEA had a contract or other relationship with the education technology provider

prior to the LEA submitting the LEA's LEA plan; and

(3) The LEA's contract or other relationship with the education technology provider proposed in the LEA plan was created in compliance with Title 63G, Chapter 6a, {Utah} Procurement Code.

(F) (1) As part of the LEA's LEA plan, and LEA may propose to:

(a) Scale the LEA's program implementation; or

(b) Limit the number of students within the LEA who will participate in the program.

(2) If the LEA scales the LEA's program implementation or limits the number of students within the LEA who will participate in the program as described in Subsection (F)(1),

beginning with year four of the program, the board shall proportionately decrease the LEA's program money as described in Section 7(G).

(G) In preparing an LEA plan, an LEA shall encourage participation and input from parents, educators, technology support personnel, and school community councils.

(H) An LEA may subject an LEA plan to a peer review.

Section 9. {Board evaluation of program – Selection of an independent evaluator – UETN board and State Board of Education reporting requirements}

(A) In accordance with this section, the board shall oversee the ongoing review and evaluation to act as an independent contractor in assisting the board in the evaluation process under this section.

(B) (1) The board shall select, through a request for proposals process, an independent evaluator to act as an independent contractor in assisting the board in the evaluation process under this section.

(2) The independent evaluator may not be a technology provider selected by the UETN board under this part or assist any person in responding to a request for proposals issued by the UETN board or by an LEA using money received under this party.

(3) The independent evaluator shall comply with the rules developed by the board and the UETN board under this party.

(C) Under the direction of the board, the independent evaluator shall:

(1) Review and evaluate the program using the criteria described in Subsection(D);

- (2) Report to the board on the criteria described in Subsection (D) annually;
- (3) Identify best practices within the program as required in Subsection (E); and
- (4) Perform other related tasks assigned to the independent evaluator by the board.

(D) The independent evaluator shall review and evaluate the program as required by this section using the following criteria:

(1) Student achievement in core subject areas as measured by statewide assessments administered pursuant to Section 53A-1-603 {Utah};

(2) Student learning growth on statewide assessments in core subject areas administered pursuant to Section 53A-1-603 {Utah};

(E) The independent evaluator shall:

(1) Identify best practices for program implementation based on:

- (a) The independent evaluator's overall review of the program; and
- (b) Independent research;

(2) Share the best practices identified in Subsection (E)(1) with:

- (a) Participating LEAs;
- (b) The board through the independent evaluator's annual report to the board;
- and
- (c) The UETN board; and

(3) Make recommendations to the board and the UETN board on modifications of LEA plans for qualifying LEAs both individually and collectively.

(F) The board and the UETN board shall jointly report annually to the Education Interim Committee on or before the committee's November meeting regarding:

(1) The status of the program, including the level of technology integration in individual qualifying LEAs; and

(2) The results of the ongoing review and evaluation conducted under this section.

Section 10. {Qualification for assistance}

(A) Except as provided in Section 63M-1-908 or 63M-1-909, the administrator shall determine which industries, companies, and individuals qualify to receive money from the Industrial Assistance Account. Except as provided by Subsection (B), to qualify for financial assistance from the restricted account, an applicant shall:

(1) Demonstrate to the satisfaction of the administrator that the applicant will expend funds in {Utah} with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per year or other more stringent requirements as established from time to time by the board for a minimum period of five years beginning with the date the loan or grant was approved;

547 (2) Demonstrate to the satisfaction of the administrator the applicant's ability to
548 sustain

549 economic activity in the state sufficient to repay, by means of cash or appropriate
550 credits, the loan provided by the restricted account; and

551 (3) Satisfy other criteria the administrator considers appropriate.

552 (B) (1) The administrator may exempt an applicant from the requirement of Subsection (A)(1) or (2) if:

553 (a) The financial assistance is provided to an applicant for the purpose of
554 locating all or any portion of its operations to an economically disadvantaged
555 rural area;

556 (b) The applicant is part of a targeted industry;

557 (c) The applicant is a quasi-public corporation organized under Title 16,
558 Chapter
559 6a, {Utah} Revised Nonprofit Corporation Act, of Title 63E, Chapter 2,
560 Independent Corporations Act, and its operations, as demonstrated to the
561 satisfaction of the administrator, will provide significant economic stimulus to
562 the growth of commerce and industry in the state; or

563 (d) The applicant is an entity offering an economic opportunity under
564 Section 63M- 1- 909.

565 (2) The administrator may not exempt the applicant from the requirement under
Digital Teaching and Learning Program Act

Subsection 63M-1-909(2)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.

(C) The administrator shall:

(1) For applicants not described in Subsection (B)(1):

(a) Make findings as to whether or not each applicant has satisfied each of the conditions set forth in Subsection (A); and

(b) Monitor the continued compliance by each applicant with each of the conditions set forth in Subsection (A) for five years;

(2) For applicants described in Subsection (B)(1), make findings as to whether the economic activities of each applicant as resulted in the creation of new jobs on a per capita basis in the economically disadvantaged rural area or targeted industry in which the applicant is located;

(3) Monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section 63M-1- 907; and

(4) Make funding decisions based upon appropriate findings and compliance.

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Digital Teaching and Learning Program Act

609 (A) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
610 Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the
611 following sums of money are appropriated from resources not otherwise
612 appropriated, or reduced from amounts previously appropriated, out of the funds
613 or accounts indicated. These sums of money are in addition to any amounts
614 previously appropriated for fiscal year 2016.

615 To State Board of Education – Utah State Office of Education – Initiative
616 Programs

From Education Fund	\$16,350,000
From Education Fund, one-time	\$50,000,000

617 Schedule of Programs:

Contracts and Grants – Digital Teaching and Learning Program	\$66,350,000
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619 To the {Utah} Education and Telehealth Network

From Education Fund	\$8,650,000
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621 Schedule of Programs:

Digital Teaching and Learning Program	\$8,650,000
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623 The Legislature intends that:

624 (B) The State Board of Education:

625 (1) Shall use \$65,000,000 of the appropriation to the State Board of Education under this
626 section to distribute grant money to qualifying LEAs as described in Sections 6 and 7.

627 (2) may use up to \$1,000,000 of the appropriation to the State Board of Education
628 to

629 contract with an independent evaluator to conduct an evaluation of the Digital
630 Teaching

631 and Learning Program as required by Section 9; and

632 (3) may use up to \$350,000 of the appropriation to the State Board of Education to oversee
Digital Teaching and Learning Program Act

and evaluate the Digital Teaching and Learning Program created in Title 53A, Chapter 1,
Part
12, Digital Teaching and Learning Program;

(C) The {Utah} Education and Telehealth Network:

(1) May use up to \$6,700,000 of the appropriation to the Utah Education and Telehealth
Network for infrastructure and technology support for the Digital Teaching and Learning
Program created in Title 53A, Chapter 1, Part 12, Digital Teaching and Learning Program;

(2) May use up to \$750,000 of the appropriation to the {Utah} Education and Telehealth
Network to contract with an education consultant as required by Section 4;

(3) May use up to \$850,000 of the appropriation to the {Utah} Education and Telehealth
Network to administer and implement the Digital Teaching and Learning Program created
in Title 53A, Chapter 1, Part 12, Digital Teaching and Learning Program; and

(4) May use up to \$350,000 of the appropriation to the {Utah} Education and Telehealth
Network to contract with one or more technology providers to provide software to

monitor

student and teacher usage of technology in qualifying LEA schools as required in Section 4;
and

(D) The appropriations under this section be:

(1) Ongoing; and

(2) Non-lapsing

Section 14. {Effective date}

(A) Except as provided in Subsection (B), if approved by two-thirds of all the members elected to
each house, this bill takes effect upon approval by the governor, or the day following the
constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's

658 signature, or in the case of a veto, the date of veto override.

659 (B) Uncodified Section 14, Appropriation, takes effect on July 1, 2015.

Dual Language Immersion Program Act {Utah}

Summary

The purpose of this Act {Utah} is to reform the Critical Languages Program by modifying it to the Dual Language Immersion Program as a pilot program while also making technical corrections.

Legislation

Section 1. {Definition}

The term “critical languages” means the languages stated in the federal National Security Language Initiative, including Chinese, Arabic, Russian, Farsi, Hindi, and Korean.

Section 2. {Course Development}

(A) The State Board of Education {Utah} shall develop a course taught in one of the aforementioned “critical languages” in the state’s public education system by means of

- (1) An interactive system composed of video and audio;
- (2) An online high school;
- (3) Traditional high school settings; or
- (4) By visiting designated “critical languages” teachers.

(B) The courses in Section 2 may employ paraprofessionals who:

- (1) Are fluent in the critical language of the course;
- (2) Can reinforce and tutor students on days when students are not participating in the two- way interactive classroom in Section 2(A)(1)
- (3) The State Board of Education {Utah}, through the state superintendent of public instruction, will ensure the paraprofessionals are fluent in the critical languages.

(C) The State Board of Education {Utah} shall make rules on the critical language courses to include:

- (1) Notification to school districts on the times and places of the course offerings; and
- (2) Instructional materials for the courses.

25 (D) The State Board of Education {Utah} shall track and monitor the progress of the Critical Languages Program
26 and may expand the program to include more course offerings and other critical languages, subject to student
27 demand for the courses and available resources.

28 (E) Subject to funding for the program, the State Board of Education {Utah} shall establish a pilot pro- gram for
29 school districts and schools to initially participate in the Critical Languages Program that pro- vides:

30 (1) Up to \$6,000 per language per school, for up to 60 schools, for courses offered in critical languages;

31 (2) Up to \$100 per student who completes a critical language course; and

32 (3) Up to an additional \$400 per foreign exchange student who completes a critical languages course;
33 however,

34 (4) If the available funding is insufficient to provide the amounts described under Section 2(E), the
35 amounts provided shall be reduced pro rata so that the total provided does not exceed the available
36 funding.

37 **Section 3. {Dual Language Immersion Pilot Program}**

38 (A) Subject to funding for the program, the State Board of Education {Utah} shall establish a pilot pro- gram for
39 school districts and schools to initially participate in the Critical Languages Immersion Pro- gram.

40 (B) The program shall provide funds as an incentive to 15 qualifying schools for the following languages:

41 (1) Six pilots for Chinese;

42 (2) Six pilots for Spanish;

43 (3) Two pilots for French; and

44 (4) One pilot for Navajo.

45 (C) Subject to funding for the program, a qualifying school shall:

46 (1) Receive up to \$18,000 per year for up to six years;

47 (2) Establish an instructional model that uses 50 percent of instruction in English and 50 percent
48 instruction in another language; and

(3) Begin the instructional model described under Subsection (C)(2) in kindergarten or grade 1 and add an additional grade each year.

Section 4. {One-time Appropriation}

(A) There is appropriated \$750,000 from the Uniform School Fund for one fiscal year only to the State Board of Education {Utah}.

(B) It is the intent of the Legislature that the appropriation under Subsection (A) be:

(1) Used to provide:

(a)) \$480,000 to the Critical Languages Program established in Section 2; and

(b) \$270,000 to the Dual Language Immersion Program established in Section 3; and

(2) Nonlapsing.

Public Charter School Authorizing and Accountability Model Legislation

Summary

The purpose of this legislation is to establish the procedure for authorizing public charter schools by creating the State Public Charter School Commission while also creating an accountability mechanism to ensure the new charter schools meet standards.

Legislation

Section 1. {Definitions}

(A) An “applicant” means any person or group that develops and submits an application for a public charter school to an authorizer.

(B) An “application” means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status.

(C) An “at-risk student” means a student who has an economic or academic disadvantage that requires special services and assistance to succeed in educational programs. The term includes, but is not necessarily limited to, students who are members of economically disadvantaged families, students who are identified as having special educational needs, students who are limited in English proficiency, students who are at risk of dropping out of high school, and students who do not meet minimum standards of academic proficiency.

(D) An “authorizer” means an entity authorized under this Act to review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to renew, not renew, or revoke charter contracts.

(E) A “charter contract” means a fixed-term, renewable contract between a public charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(F) A “conversion public charter school” means a charter school that existed as a non-charter public school before becoming a public charter school.

26 (G) An “education service provider” means a for-profit education management organization, non-
27 profit charter management organization, school design provider, or any other partner entity with
28 which a public charter school intends to contract for educational design, implementation, or
29 comprehensive management.

30 (H) A “governing board” means the independent board of a public charter school that is party to the
31 charter contract with the authorizer and whose members have been elected or selected pursuant to
32 the school’s application.

33 (I) A “local school board” means a school board exercising management and control of a local school
34 district pursuant to the state constitution and state statutes.

35 (J) A “local school district” means a public agency that establishes and supervises one or more public
36 schools within its geographical limits pursuant to the state constitution and state statutes.

37 (K) A “non-charter public school” means a public school that is under the direct management,
38 governance, and control of a local school board or the state.

39 (L) A “parent” means a parent, guardian, or other person or entity having legal custody of a child.

40 (M) A “public charter school” means a public school that:

41 (1) Has autonomy over decisions including, but not limited to, matters concerning finance,

42 personnel, scheduling, curriculum, and instruction;

43 (2) Is governed by an independent governing board;

44 (3) Is established and operating under the terms of a charter contract between the school’s

45 board and its authorizer;

46 (4) Is a school to which parents choose to send their children;

47 (5) Is a school that admits students on the basis of a lottery if more students apply for

48 admission than can be accommodated;

(6) Provides a program of education that includes one or more of the following: pre-school, pre- kindergarten, any grade or grades from kindergarten through 12th grade, and adult community, continuing, and vocational education programs;

(7) Operates in pursuit of a specific set of educational objectives as defined in its charter contract; and

(8) Operates under the oversight of its authorizer in accordance with its charter contract.

(N) A “start-up public charter school” means a public charter school that did not exist as a non-charter public school prior to becoming a public charter school.

(O) A “student” means any child who is eligible for attendance in public schools in the state.

(P) A “virtual public charter school” means a public charter school that offers educational services predominantly through an on-line program.

Section 2. {Authorizers}

(A) Eligible Authorizing Entities

(1) The state public charter school commission created under Section 2, (B) of this Act may authorize public charter schools anywhere in the state, provided that the commission fulfills requirements of all public charter school authorizers under this Act.

(2) A local school board may register with the state, pursuant to Section 2, (C) of this Act, for chartering authority within the boundaries of the school district overseen by the local school board.

(3) Governing boards of accredited public or private postsecondary institutions, including community colleges, technical colleges, tribal colleges, and four-year colleges and universities,

may apply to the state, pursuant to Section 2, (D) of this Act, for statewide, regional, or local chartering authority, in accordance with each institution's regular operating jurisdiction.

(4) A mayor may apply to the state, pursuant to Section 2, (D) of this Act, for chartering authority within the mayor's jurisdiction.

(5) A city council may apply to the state, pursuant to Section 2, (D) of this Act, for chartering authority within the city council's jurisdiction.

(6) Governing boards of non-profit or charitable organizations, which are exempt from federal taxes under sections 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply to the state, pursuant to Section 2, (D) of this Act, and may be granted statewide, regional, or local chartering authority. Nonpublic sectarian or religious organizations, and any other charitable organization which in their federal IRS Form 1023, Part IV, describe activities indicating a religious purpose, are not eligible to apply to become an authorizer.

(B) State Public Charter School Commission

(1) This Act establishes a state public charter school commission (the "Commission") as an independent state agency with statewide chartering jurisdiction and authority.

(2) The mission of the Commission shall be to authorize high-quality public charter schools throughout the state, particularly schools designed to expand opportunities for at-risk students, consistent with the purposes of this Act.

(3) The Commission shall consist of nine members, no more than five of whom shall be members of the same political party. Three members shall be appointed by the Governor;

threemembers shall be appointed by the President of the Senate; and three members shall be appointed by the Speaker of the House of Representatives. In making the appointments, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall ensure statewide geographic diversity among Commission members.

(4) Members appointed to the Commission shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, and curriculum and instruction, and public education law. All members of the Commission shall have demonstrated understanding of and commitment to charter schooling as a strategy for strengthening public education.

(5) To establish staggered terms of office, the initial term of office for three Commission members shall be four years and thereafter shall be three years; the initial term of office for another three members shall be three years and thereafter shall be three years; and the initial term of office for the last three members shall be two years and thereafter shall be two years. No member shall serve more than seven consecutive years. The initial appointments shall be made no later than [INSERT DATE].

(6) A member of the Commission may be removed for any cause that renders the member incapable or unfit to discharge the duties of the office. Whenever a vacancy on the Commission exists, the original appointing authority shall appoint a member for the remaining portion of the term.

(7) To commence operations, the Commission shall be funded initially by a one-time state

appropriation of \$250,000. The Commission is authorized to receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this Act, subject to the terms and conditions under which they are given, provided that all such terms and conditions are permissible under law.

(8) The Commission shall operate with dedicated resources and staff qualified to execute the day- to- day responsibilities of public charter school authorizing in accordance with this Act.

(C) Chartering Authority Registration of Local School Boards

(1) The state shall publicize to all local school boards the opportunity to register with the state for chartering authority within the school districts they oversee. By [INSERT DATE] of each year, the state shall provide information about the opportunity, including a registration deadline, to all local school boards. To register as a charter authorizer in its school district, each interested local school board shall submit the following information in a format to be established by the state:

(a) Written notification of intent to serve as a charter authorizer in accordance with this Act;

(b) An explanation of the local school board's strategic vision for chartering;

(c) An explanation of the local school board's budget and personnel capacity and commitment to execute the duties of quality charter authorizing, in accordance with this Act;

(d) An explanation of how the local school board will solicit public charter school

applicants, in accordance with this Act;

(e) A description or outline of the performance framework the local school board will use to guide the establishment of a charter contract and for ongoing oversight and evaluation of public charter schools, consistent with the requirements of this Act; and

(f) A draft of the local school board's renewal, revocation, and non-renewal processes, consistent with Section 4, (C).

(g) A statement of assurance that the local school board commits to serving as a charter authorizer in fulfillment of the expectations, spirit, and intent of this Act, and will fully participate in any authorizer training provided or required by the state.

(2) Within [INSERT NUMBER OF DAYS] of receipt of a local school board's duly submitted registration materials, the state shall register the local school board as a charter authorizer within the local board's school district, and shall provide the local board a letter confirming its registration as a charter authorizer. No local school board shall engage in any charter-authorizing functions without current registration as a charter authorizer with the state. Once registered, the local school board's registration as a charter authorizer shall continue from year to year, provided that the local school board fulfills all charter-authorizing duties and expectations set forth in this Act and remains an authorizer in good standing with the state.

(D) Chartering Authority Application for Eligible Entities

(1) The state shall establish the annual application and approval process, including cycles and deadlines during the fiscal year, for all entities eligible to apply for chartering authority, as set

150 forth in Section 2, (A) of this Act. By [INSERT DATE] of each year, the state shall make available
151 information and guidelines for all eligible entities concerning the opportunity to apply for
152 chartering authority under this Act. The application process shall require each interested
153 eligible entity to submit an application that clearly explains or presents the following elements:

154 (a) Written notification of intent to serve as a charter authorizer in accordance with
155 this Act;

156 (b) The applicant entity's strategic vision for chartering;

157 (c) A plan to support the vision presented, including explanation and evidence of the
158 applicant entity's budget and personnel capacity and commitment to execute the
159 responsibilities of quality charter authorizing, in accordance with this Act;

160 (d) A draft or preliminary outline of the request for proposals that the applicant entity
161 would, if approved as a charter authorizer, issue to solicit public charter school
162 applicants, consistent with Section 3, (A) of this Act;

163 (e) A draft of the performance framework that the applicant entity would, if approved
164 as a charter authorizer, use to guide the establishment of a charter contract and for
165 ongoing oversight and evaluation of public charter schools, consistent with the
166 requirements of this Act;

167 (f) A draft of the applicant entity's renewal, revocation, and non-renewal processes,
168 consistent with Section 4, (C) of this Act;

169 (g) A statement of assurance that the applicant entity seeks to serve as a charter

authorizer in fulfillment of the expectations, spirit, and intent of this Act, and that if approved as a charter authorizer, the entity will fully participate in any authorizer training provided or required by the state; and

(h) A statement of assurance that the applicant will ensure public accountability and transparency in all matters concerning their charter-authorizing practices, decisions, and expenditures.

(2) By [INSERT DATE] of each year, the state shall decide whether to grant or deny chartering authority to each applicant. The state shall make its decisions on the merits of each applicant's proposal and plans.

(3) Within [INSERT NUMBER OF DAYS] of the state's decision, the state shall execute a renewable authorizing contract with each entity it has approved for chartering authority. The initial term of each authorizing contract shall be six years. The authorizing contract shall specify each approved entity's agreement to serve as a charter authorizer in accordance with the expectations of this Act, and shall specify additional performance terms based on the applicant's proposal and plan for chartering. No approved entity shall commence charter authorizing without an authorizing contract in effect.

(E) Authorizer Powers, Duties, and Liabilities

(1) Authorizers are responsible for executing, in accordance with this Act, the following essential powers and duties:

(a) Soliciting and evaluating charter applications;

- (b) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;
- (c) Declining to approve weak or inadequate charter applications;
- (d) Negotiating and executing sound charter contracts with each approved public charter school;
- (e) Monitoring, in accordance with charter contract terms, the performance and legal compliance of public charter schools; and
- (f) Determining whether each charter contract merits renewal, nonrenewal, or revocation.

(2) An authorizing entity may delegate its duties to offices, employees, and contractors.

(3) Regulation by authorizers shall be limited to these powers and duties, and consistent with the spirit and intent of this Act.

(4) An authorizing entity, members of the board of an authorizer in their official capacity, and employees of an authorizer are immune from civil and criminal liability with respect to all activities related to a public charter school they authorize.

(F) Principles and Standards for Charter Authorizing

(1) All authorizers shall be required to develop and maintain chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility including: organizational capacity and infrastructure; soliciting and evaluating charter applications; performance contracting; ongoing

public charter school oversight and evaluation; and charter renewal decision-making. Authorizers shall carry out all their duties under this Act in a manner consistent with such nationally recognized principles and standards and with the spirit and intent of this Act. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers.

(G) Authorizer Reporting

(1) Every authorizer shall be required to submit to the state and the general assembly an annual report summarizing:

(a) The authorizer's strategic vision for chartering and progress toward achieving that vision;

(b) The academic and financial performance of all operating public charter schools overseen by the authorizer, according to the performance expectations for public charter schools set forth in this Act;

(c) The status of the authorizer's public charter school portfolio, identifying all public charter schools in each of the following categories: approved (but not yet open), operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;

(d) The authorizing functions provided by the authorizer to the public charter schools under its purview, including the authorizer's operating costs and expenses detailed in annual audited financial statements that conform with Generally Accepted Accounting Principles; and

(e) The services purchased from the authorizer by the public charter schools under its purview, including an itemized accounting of the actual costs of these services, as required in Section 2, (K).

(H) Authorizer Funding

(1) To cover authorizer costs for overseeing public charter schools in accordance with this Act, the state shall remit to each authorizer an oversight fee for each public charter school it authorizes. The oversight fee shall be drawn from and calculated as a uniform percentage of the per-student operational funding allocated to each public charter school, not to exceed three percent of each public charter school's per-student funding in a single school year. The state shall establish a statewide formula for authorizer funding, which shall apply uniformly to every authorizer in the state. The state may establish a sliding scale for authorizer funding, with the funding percentage decreasing after the authorizer has achieved a certain threshold, such as after a certain number of years of authorizing or after a certain number of schools has been authorized.

(2) An authorizer's oversight fee shall not include any costs incurred in delivering services that a public charter school may purchase at its discretion from the authorizer. The authorizer shall use its funding provided under this section exclusively for the purpose of fulfilling authorizing obligations in accordance with this Act.

(3) The state shall annually review the effectiveness of the state formula for authorizer funding, and shall adjust the formula if necessary to maximize public benefit and strengthen the implementation of this Act.

250 (I) Conflicts of Interest

251 (1) No employee, trustee, agent, or representative of an authorizer may simultaneously serve
252 as an employee, trustee, agent, representative, vendor, or contractor of a public charter
253 school authorized by that entity.

254 (J) Exclusivity of Authorizing Functions and Rights

255 (1) No governmental or other entity, other than those expressly granted chartering authority as
256 set forth in this Act, may assume any charter authorizing function or duty in any form, unless
257 expressly allowed by law.

258 (K) Services Purchased from Authorizer – Itemized Accounting

259 (1) With the exception of oversight services as required by Section 2, (H), no public charter
260 school shall be required to purchase services from its authorizer as a condition of charter
261 approval or of executing a charter contract, nor may any such condition be implied.

262 (2) A public charter school may, at its discretion, choose to purchase services from its
263 authorizer. In such event, the public charter school and authorizer shall execute an annual
264 service contract, separate from the charter contract, stating the parties' mutual agreement
265 concerning any services to be provided by the authorizer and any service fees to be charged to
266 the public charter school. An authorizer may not charge more than market rates for services
267 provided to a public charter school.

268 (3) Within [INSERT NUMBER OF DAYS] after the end of each fiscal year, each authorizer shall
269 provide to each public charter school it oversees an itemized accounting of the actual costs of

services purchased by the public charter school from the authorizer. Any difference between the amount initially charged to the public charter school and the actual cost shall be reconciled and paid to the owed party. If either party disputes the itemized accounting, any charges included in such accounting, or charges to either party, the disputing party is entitled to request a third-party review at its own expense. The review shall be conducted by state whose determination shall be final.

(L) Oversight of Public Charter School Authorizers

(1) The state shall be responsible for overseeing the performance and effectiveness of all authorizers established under this Act.

(2) In accordance with Section 2, (G), every authorizer shall be required to submit to the state and the general assembly an annual report. The state shall, by [INSERT DATE] of each year, communicate to every authorizer the requirements for the format, content, and submission of the annual report.

(3) Persistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances may trigger a special review by the state. In reviewing or evaluating the performance of authorizers, the state shall apply nationally recognized principles and standards for quality charter authorizing. If at any time the state finds that an authorizer is not in compliance with an existing charter contract, its authorizing contract with the state, or the requirements of all authorizers under this Act, the state shall

290 notify the authorizer in writing of the identified problems, and the authorizer shall have
291 reasonable opportunity to respond and remedy the problems.

292 (4) If a local school board registered as an authorizer under Section 2, (C) of this Act persists in
293 violating a material provision of a charter contract or fails to remedy other authorizing
294 problems after due notice from the state, the state shall notify the local school board, within a
295 reasonable amount of time under the circumstances, that it intends to terminate the local
296 board's chartering authority unless the local board demonstrates a timely and satisfactory
297 remedy for the violation or deficiencies.

298 (5) If an authorizer granted chartering authority under Section 2, (D) of this Act persists, after
299 due notice from the state, in violating a material provision of a charter contract or its
300 authorizing contract with the state, or fails to remedy other identified authorizing problems,
301 the state shall notify the authorizer, within a reasonable amount of time under the
302 circumstances, that it intends to revoke the authorizer's chartering authority unless the
303 authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.

304 (6) In the event of revocation of any authorizer's chartering authority, the state shall manage
305 the timely and orderly transfer of each charter contract held by that authorizer to another
306 authorizer in the state, with the mutual agreement of each affected public charter school and
307 proposed new authorizer. The new authorizer shall assume the existing charter contract for the
308 remainder of the charter term.

309 **Section 3. {Application Process}**

310 (A) Request for Proposals

311 (1) To solicit, encourage, and guide the development of quality public charter school
312 applications, every authorizer operating under this Act shall issue and broadly publicize a
313 request for proposals by [INSERT DATE]. The content and dissemination of the request for
314 proposals shall be consistent with the purposes and requirements of this Act.

315 (2) Charter applicants may submit a proposal for a particular public charter school to no more
316 than one authorizer at a time.

317 (3) The state shall annually establish and disseminate a statewide timeline for charter approval
318 or denial decisions, which shall apply to all authorizers in the state.

319 (4) Each authorizer's request for proposals shall present the authorizer's strategic vision for
320 chartering, including a clear statement of any preferences the authorizer wishes to grant to
321 applications that help at-risk students.

322 (5) The request for proposals shall include or otherwise direct applicants to the performance
323 framework that the authorizer has developed for public charter school oversight and
324 evaluation in accordance with Section 4, (A) of this Act.

325 (6) The request for proposals shall include the criteria that will guide the authorizer's decision
326 to approve or deny a charter application.

327 (7) The request for proposals shall state clear, appropriately detailed questions as well as
328 guidelines concerning the format and content essential for applicants to demonstrate the
329 capacities necessary to establish and operate a successful public charter school.

(8) The request for proposals shall require charter applications to provide or describe thoroughly, and each charter application shall provide or describe thoroughly, all of the following essential elements of the proposed school plan:

(a) An executive summary;

(b) The mission and vision of the proposed public charter school, including identification of the targeted student population and the community the school hopes to serve;

(c) The location or geographic area proposed for the school;

(d) The grades to be served each year for the full term of the charter contract;

(e) Minimum, planned, and maximum enrollment per grade per year for the term of the charter contract;

(f) Evidence of need and community support for the proposed public charter school;

(g) Background information on the proposed founding governing board members and, if identified, the proposed school leadership and management team

(h) The school's proposed calendar and sample daily schedule;

(i) A description of the academic program aligned with state standards;

(j) A description of the school's instructional design, including the type of learning environment (such as classroom-based or independent study), class size and structure, curriculum overview, and teaching methods;

(k) The school's plan for using internal and external assessments to measure and

report student progress on the performance framework developed by the authorizer
in accordance with Section 4, (A) of this Act;

(l) The school's plans for identifying and successfully serving students with disabilities,
students who are English language learners, students who are academically behind,
and gifted students, including but not limited to compliance with applicable laws and
regulations;

(m) A description of co-curricular or extracurricular programs and how they will be
funded and delivered;

(n) Plans and timelines for student recruitment and enrollment, including lottery
procedures;

(o) The school's student discipline policies, including those for special education
students;

(p) An organization chart that clearly presents the school's organizational structure,
including lines of authority and reporting between the governing board, staff, any
related bodies (such as advisory bodies or parent and teacher councils), and any
external organizations that will play a role in managing the school;

(q) A clear description of the roles and responsibilities for the governing board, the
school's leadership and management team, and any other entities shown in the
organization chart;

(r) A staffing chart for the school's first year, and a staffing plan for the term of the

370 charter;

371 (s) Plans for recruiting and developing school leadership and staff;

372 (t) The school's leadership and teacher employment policies, including performance
373 evaluation plans;

374 (u) Proposed governing bylaws;

375 (v) Explanations of any partnerships or contractual relationships central to the
376 school's operations or mission;

377 (w) The school's plans for providing transportation, food service, and all other
378 significant operational or ancillary services;

379 (x) Opportunities and expectations for parent involvement;

380 (y) A detailed school start-up plan, identifying tasks, timelines and responsible
381 individuals;

382 (z) Description of the school's financial plan and policies, including financial controls
383 and audit requirements;

384 (aa) A description of the insurance coverage the school will obtain;

385 (bb) Start-up and five-year budgets with clearly stated assumptions;

386 (cc) Start-up and first-year cash-flow projections with clearly stated assumptions;

387 (dd) Evidence of anticipated fundraising contributions, if claimed in the application;
388 and,

389 (ee) A sound facilities plan, including backup or contingency plans if appropriate.

(9) In the case of an application to establish a public charter school by converting an existing non-charter public school to public charter school status, the request for proposals shall additionally require the applicants to demonstrate support for the proposed public charter school conversion by a petition signed by a majority of teachers and a petition signed by a majority of parents of students in the existing non-charter public school.

(10) In the case of a proposal to establish a virtual public charter school, the request for proposals shall additionally require the applicants to describe the proposed school's system of course credits and how the school will:

- (a) Monitor and verify full-time student enrollment, student participation in a full course load, credit accrual, and course completion;
- (b) Monitor and verify student progress and performance in each course through regular, proctored assessments and submissions of coursework;
- (c) Conduct parent-teacher conferences; and
- (d) Administer state-required assessments to all students in a proctored setting.
- (e) In the case of a proposed public charter school that intends to contract with an education service provider for substantial educational services, management services, or both types of services, the request for proposals shall successful management of non-academic school functions if applicable;
- (f) Provide a term sheet setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and the service

provider; scope of services and resources to be provided by the service provider;
performance evaluation measures and time- lines; compensation structure, including
clear identification of all fees to be paid to the service provider; methods of contract
oversight and enforcement; investment disclosure; and conditions for renewal and
termination of the contract; and

(g) Disclose and explain any existing or potential conflicts of interest between the
school governing board and proposed service provider or any affiliated business
entities.

(11) In the case of a public charter school proposal from an applicant that currently operates
one or more schools in any state or nation, the request for proposals shall additionally require
the applicant to provide evidence of past performance and current capacity for growth.

(B) Application Decision-making Process

(1) In reviewing and evaluating charter applications, authorizers shall employ procedures,
practices, and criteria consistent with nationally recognized principles and standards for quality
charter authorizing. The application review process shall include thorough evaluation of each
written charter application, an in-person interview with the applicant group, and an
opportunity in a public forum for local residents to learn about and provide input on each
application.

(2) In deciding whether to approve charter applications, authorizers shall:

(a) Grant charters only to applicants that have demonstrated competence in each

430 element of the authorizer's published approval criteria and are likely to open and
431 operate a successful public charter school;

432 (b) Base decisions on documented evidence collected through the application review
433 process;

434 (c) Follow charter-granting policies and practices that are transparent, based on
435 merit, and avoid conflicts of interest or any appearance thereof.

436 (3) No later than [INSERT NUMBER OF DAYS] after the filing of a charter application, the
437 authorizer shall decide to approve or deny the charter application. The authorizer shall adopt
438 by resolution all charter approval or denial decisions in an open meeting of the authorizer's
439 governing board.

440 (4) An approval decision may include, if appropriate, reasonable conditions that the charter
441 applicant must meet before a charter contract may be executed pursuant to Section 3, (E) of
442 this Act.

443 (5) For any charter denial, the authorizer shall clearly state, for public record, its reasons for
444 denial. A denied applicant may subsequently re-apply to that authorizer or apply to any other
445 authorizer in the state.

446 (6) Within [INSERT NUMBER OF DAYS] of taking action to approve or deny a charter application,
447 the authorizer shall report to the state the action it has taken. The authorizer shall provide a
448 copy of the report to the charter applicant at the same time that the report is submitted to the
449 state. The report shall include a copy of the authorizer governing board's resolution setting

450 forth the action taken and reasons for the decision and assurances as to compliance with all of
451 the procedural requirements and application elements set forth in Section 3 of this Act.

452 (C) Purposes and Limitations of Charter Applications

453 (1) The purposes of the charter application are to present the proposed public charter school's
454 academic and operational vision and plans, demonstrate the applicant's capacities to execute
455 the proposed vision and plans, and provide the authorizer a clear basis for assessing the
456 applicant's plans and capacities. An approved charter application shall not serve as the
457 school's charter contract.

458 (D) Initial Charter Term

459 (1) An initial charter shall be granted for a term of five operating years. The charter term shall
460 commence on the public charter school's first day of operation. An approved public charter
461 school may delay its opening for one school year in order to plan and prepare for the school's
462 opening. If the school requires an opening delay of more than one school year, the school must
463 request an extension from its authorizer. The authorizer may grant or deny the extension
464 depending on the particular school's circumstances.

465 (E) Charter Contracts

466 (1) Within [INSERT NUMBER OF DAYS] of approval of a charter application, the authorizer and
467 the governing board of the approved public charter school shall execute a charter contract
468 that clearly sets forth the academic and operational performance expectations and measures
469 by which the public charter school will be judged and the administrative relationship between

the authorizer and public charter school, including each party's rights and duties. The performance expectations and measures set forth in the charter contract shall include but need not be limited to applicable federal and state accountability requirements. The performance provisions may be refined or amended by mutual agreement after the public charter school is operating and has collected baseline achievement data for its enrolled students.

(2) The charter contract for a virtual public charter school shall include description and agreement regarding the methods by which the school will:

(a) Monitor and verify full-time student enrollment, student participation in a full course load, credit accrual, and course completion;

(b) Monitor and verify student progress and performance in each course through regular, proctored assessments and submissions of coursework;

(c) Conduct parent-teacher conferences; and

(d) Administer state-required assessments to all students in a proctored setting.

(3) The charter contract shall be signed by the president of the authorizer's governing board and the president of the public charter school's governing body. Within [INSERT NUMBER OF DAYS] of executing a charter contract, the authorizer shall submit to the state written notification of the charter contract execution, including a copy of the executed charter contract and any attachments.

(4) No public charter school may commence operations without a charter contract executed in

accordance with this provision and approved in an open meeting of the authorizer's governing board.

(F) Pre-Opening Requirements or Conditions

(1) Authorizers may establish reasonable pre-opening requirements or conditions to monitor the start-up progress of newly approved public charter schools and ensure that they are prepared to open smoothly on the date agreed, and to ensure that each school meets all building, health, safety, insurance, and other legal requirements for school opening.

Section 4. {Accountability}

(A) Performance Framework

(1) The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures and metrics that will guide the authorizer's evaluations of each public charter school. The performance framework shall include indicators, measures and metrics for, at a minimum:

- (a) Student academic proficiency;
- (b) Student academic growth;
- (c) Achievement gaps in both proficiency and growth between major student subgroups;
- (d) Attendance;
- (e) Recurrent enrollment from year to year;
- (f) Postsecondary readiness (for high schools);

(g) Financial performance and sustainability; and

(h) Board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.

(2) Annual performance targets shall be set by each public charter school in conjunction with its authorizer, and shall be designed to help each school meet applicable federal, state, and authorizer expectations.

(3) The performance framework shall allow the inclusion of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance, provided that the authorizer approves the quality and rigor of such school-proposed indicators, and they are consistent with the purposes of this Act.

(4) The performance framework shall require the disaggregation of all student performance data by major student subgroups (gender, race, poverty status, special education status, English Learner status, and gifted status).

(5) For each public charter school it oversees, the authorizer shall be responsible for collecting, analyzing, and reporting all data from state assessments in accordance with the performance framework.

(6) Multiple schools operating under a single charter contract or overseen by a single governing board shall be required to report their performance as separate, individual schools, and each school shall be held independently accountable for its performance.

(B) Ongoing Oversight and Corrective Actions

(1) An authorizer shall continually monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter contract. Every authorizer shall have the authority to conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this Act, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this Act, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to public charter schools.

(2) Each authorizer shall annually publish and provide, as part of its annual report to the state and the general assembly, a performance report for each public charter school it oversees, in accordance with the performance framework set forth in the charter contract and Section 4, (G) of this Act. The authorizer may require each public charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.

(3) In the event that a public charter school's performance or legal compliance appears unsatisfactory, the authorizer shall promptly notify the public charter school of the perceived problem and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation in which case the revocation timeframes will apply.

(4) Every authorizer shall have the authority to take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in public charter school performance or legal compliance. Such actions or sanctions may include, if warranted,

requiring a school to develop and execute a corrective action plan within a specified
timeframe.

(C) Renewals, Revocations, and Non-renewals

(1) A charter may be renewed for successive five-year terms of duration, although the
authorizer may vary the term based on the performance, demonstrated capacities, and
particular circumstances of each public charter school. An authorizer may grant renewal with
specific conditions for necessary improvements to a public charter school.

(2) No later than [INSERT DATE], the authorizer shall issue a public charter school performance
report and charter renewal application guidance to any public charter school whose charter
will expire the following year. The performance report shall summarize the public charter
school's performance record to date, based on the data required by this Act and the charter
contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer
concerning the public charter school that may jeopardize its position in seeking renewal if not
timely rectified. The public charter school shall have [INSERT NUMBER OF DAYS] to respond to
the performance report and submit any corrections or clarifications for the report.

(3) The renewal application guidance shall, at a minimum, provide an opportunity for the
public charter school to:

(a) Present additional evidence, beyond the data contained in the performance
report, supporting its case for charter renewal;

(b) Describe improvements undertaken or planned for the school; and

(c) Detail the school's plans for the next charter term.

(4) The renewal application guidance shall include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on the performance framework set forth in the charter contract and consistent with this Act.

(5) No later than [INSERT DATE], the governing board of a public charter school seeking renewal shall submit a renewal application to the charter authorizer pursuant to the renewal application guidance issued by the authorizer. The authorizer shall rule by resolution on the renewal application no later than [INSERT NUMBER OF DAYS] after the filing of the renewal application.

(6) In making charter renewal decisions, every authorizer shall:

(a) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;

(b) Ensure that data used in making renewal decisions are available to the school and the public; and

(c) Provide a public report summarizing the evidence basis for each decision.

(7) A charter contract may be revoked at any time or not renewed if the authorizer determines that the public charter school did any of the following or otherwise failed to comply with the provisions of this Act:

(a) Commits a material and substantial violation of any of the terms, conditions,

standards, or procedures required under this Act or the charter contract;

(b) Fails to meet or make sufficient progress toward the performance expectations set forth in the charter contract;

(c) Fails to meet generally accepted standards of fiscal management; or

(d) Substantially violates any material provision of law from which the public charter school was not exempted.

(8) An authorizer must develop revocation and non-renewal processes that:

(a) Provide the charter holders with a timely notification of the prospect of revocation or non-renewal and of the reasons for such possible closure;

(b) Allow the charter holders a reasonable amount of time in which to prepare a response;

(c) Provide the charter holders with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at an orderly proceeding held for that purpose;

(d) Allow the charter holders access to representation by counsel and to call witnesses on their behalf;

(e) Permit the recording of such proceedings; and

(f) After a reasonable period for deliberation, require a final determination be made and conveyed in writing to the charter holders.

(9) If an authorizer revokes or does not renew a charter, the authorizer shall clearly state, in a

resolution of its governing board, the reasons for the revocation or nonrenewal.

(10) Within [INSERT NUMBER OF DAYS] of taking action to renew, not renew, or revoke a charter, the authorizer shall report to the state the action taken, and shall provide a copy of the report to the public charter school at the same time that the report is submitted to the state. The report shall include a copy of the authorizer governing board's resolution setting forth the action taken and reasons for the decision and assurances as to compliance with all of the requirements set forth in this Act.

(D) School Closure and Dissolution

(1) Prior to any public charter school closure decision, an authorizer shall have developed a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets in accordance with the requirements of this Act. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorizer. In the event of a public charter school closure for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.

(2) In the event of a public charter school closure for any reason, the assets of the school shall be distributed first to satisfy outstanding payroll obligations for employees of the school, then to creditors of the school, and then to the state treasury to the credit of the general revenue fund. If the assets of the school are insufficient to pay all parties to whom the school owes

compensation, the prioritization of the distribution of assets may be determined by decree of a court of law.

(E) Charter Transfers

(1) Transfer of a charter contract, and of oversight of that public charter school, from one authorizer to another before the expiration of the charter term shall not be permitted except by special petition to the state by a public charter school or its authorizer. The state shall reviewsuch petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the public charter school's students.

(F) Annual Report

(1) On or before [INSERT DATE] of each year beginning in the first year after the state will have had public charter schools operating for a full school year, the state shall issue to the governor, the general assembly, and the public at large, an annual report on the state's public charter schools, drawing from the annual reports submitted by every authorizer as well as any additional relevant data compiled by the state, for the school year ending in the preceding calendar year. The annual report shall include a comparison of the performance of public charter school students with the performance of academically, ethnically, and economically comparable groups of students in non-charter public schools. In addition, the annual report shall include the state's assessment of the successes, challenges, and areas for improvement in meeting the purposes of this Act, including the state's assessment of the sufficiency of funding

for public charter schools, the efficacy of the state formula for authorizer funding, and any suggested changes in state law or policy necessary to strengthen the state's public charter schools.

(2) additionally require the applicants to:

(a) Provide evidence of the education service provider's success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as

Public Charter School Funding and Facilities Model Legislation

1

2 **Summary**

3 The purpose of this legislation is to outline the funding requirements for and facilities operations of
4 public charter schools.

5 **Legislation**

6 **Section 1. {Definitions}**

7 (A) An “applicant” means any person or group that develops and submits an application for a
8 public charter school to an authorizer.

9 (B) An “applicant” means any person or group that develops and submits an application for a
10 public charter school to an authorizer.

11 (C) An “at-risk student” means a student who has an economic or academic disadvantage that
12 requires special services and assistance to succeed in educational programs. The term
13 includes, but is not necessarily limited to, students who are members of economically
14 disadvantaged families, students who are identified as having special educational needs,
15 students who are limited in English proficiency, students who are at risk of dropping out of
16 high school, and students who do not meet minimum standards of academic proficiency.

17 (D) An “authorizer” means an entity authorized under this Act to review applications, decide
18 whether to approve or reject applications, enter into charter contracts with applicants,
19 oversee public charter schools, and decide whether to renew, not renew, or revoke charter
20 contracts.

21 (E) A “charter contract” means a fixed-term, renewable contract between a public charter school
22 and an authorizer that outlines the roles, powers, responsibilities, and performance
23 expectations for each party to the contract.

24 (F) A “conversion public charter school” means a charter school that existed as a non-charter
25 public school before becoming a public charter school.

26 (G) An “education service provider” means a for-profit education management organization,
27 non-profit charter management organization, school design provider, or any other partner
28 entity with which a public charter school intends to contract for educational design,
29 implementation, or comprehensive management.

(H) A “governing board” means the independent board of a public charter school that is party to the charter contract with the authorizer and whose members have been elected or selected pursuant to the school’s application.

(I) A “local school board” means a school board exercising management and control of a local school district pursuant to the state constitution and state statutes.

(J) A “local school district” means a public agency that establishes and supervises one or more public schools within its geographical limits pursuant to the state constitution and state statutes.

(K) A “non-charter public school” means a public school that is under the direct management, governance, and control of a local school board or the state.

(L) A “parent” means a parent, guardian, or other person or entity having legal custody of a child.

(M) A “public charter school” means a public school that:

(1) as autonomy over decisions including, but not limited to, matters concerning finance, personnel, scheduling, curriculum, and instruction;

(2) Is governed by an independent governing board;

(3) Is established and operating under the terms of a charter contract between the school’s board and its authorizer;

(4) Is a school to which parents choose to send their children;

(5) Is a school that admits students on the basis of a lottery if more students apply for admission than can be accommodated;

(6) Provides a program of education that includes one or more of the following: pre-school, pre- kindergarten, any grade or grades from kindergarten through 12th grade, and adult community, continuing, and vocational education programs;

(7) Operates in pursuit of a specific set of educational objectives as defined in its charter contract; and

(8) Operates under the oversight of its authorizer in accordance with its charter contract.

(N) A “start-up public charter school” means a public charter school that did not exist as a non-charter public school prior to becoming a public charter school.

(O) A "student" means any child who is eligible for attendance in public schools in the state.

(P) A "virtual public charter school" means a public charter school that offers educational services predominantly through an on-line program.

Section 2. {Funding}

[The 44 jurisdictions with public charter school laws vary greatly in how they fund public charter schools. In this model legislation, we provide three options for handling this issue in state law. In the first option, funding flows from the state to school districts to public charter schools. In the second option, funding flows from the state directly to public charter schools. In the third option, funding flows from the state to authorizers to public charter schools.]

OPTION 1: FUNDING FLOWS FROM THE STATE TO SCHOOL DISTRICTS TO PUBLIC CHARTER SCHOOLS

(A) Enrollment

(1) The enrollment of students attending public charter schools shall be included in the enrollment, attendance, and, if applicable, count of students with disabilities of the school district in which the student resides. The public charter school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance, and count of students with disabilities to the state department of education.

(B) Operational Funding

(1) The school district of residence shall pay directly to the public charter school for each student enrolled in the public charter school who resides in the school district an amount for that student equal to one hundred percent of the amount calculated pursuant to the state's funding formula for school districts, notwithstanding any oversight fee reductions pursuant to this Act.

(C) Payment Schedule

(1) Payments made pursuant to this section shall be made by school districts in twelve substantially equal installments each year beginning on the first business day of July and every month thereafter. Amounts payable under this section shall be determined by the state department of education. Amounts payable to a public charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter contract. Such projections shall be reconciled with the actual enrollment at the

end of the school's first year of operation, and any necessary adjustments shall be made to payments during the school's second year of operation.

(D) Sanctions for Failure to Make Payments

- (1) In the event of the failure of a school district to make payments required by this section, the state treasurer shall deduct from any state funds which become due to such school district an amount equal to the unpaid obligation. The treasurer shall pay over such sum to the public charter school upon certification of the state department of education. The state department of education shall or delegation promulgate regulations to implement the provisions of this section.

(E) Categorical Funding

- (1) A school district shall direct the proportionate share of moneys generated under federal and state categorical aid programs to public charter schools serving students eligible for such aid. A school district shall ensure that public charter schools with rapidly expanding enrollments are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars. Each public charter school that serves students who may be eligible to receive services provided through such programs shall comply with all reporting requirements to receive the aid.

(F) Special Education Funding

FOR PUBLIC CHARTER SCHOOLS THAT ARE THEIR OWN LEAS FOR SPECIAL EDUCATION PURPOSES:

- (1) A school district shall pay directly to a public charter school any federal or state aid attributable to a student with a disability attending the school.
- (2) At either party's request, a public charter school and its authorizer may negotiate and include in the charter contract alternate arrangements for the provision of and payment for special education services.

FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF NON-DISTRICT AUTHORIZER LEAS FOR SPECIAL EDUCATION PURPOSES:

- (1) A school district shall pay directly to a public charter school any federal or state aid attributable to a student with a disability attending the school.

(2) A public charter school shall pay to its authorizer any federal or state aid attributable to a student with a disability attending a public charter school in proportion to the level of services for such student that the authorizer provides directly or indirectly.

(3) At either party's request, a public charter school and its authorizer may negotiate and include in the charter contract alternate arrangements for the provision of and payment for special education services, including, but not necessarily limited to, a reasonable reserve not to exceed five percent of the authorizer's total budget for providing special education services. The reserve shall only be used by the authorizer to offset excess costs of providing services to students with disabilities enrolled in one of its public charter schools.

FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF SCHOOL DISTRICT LEAS FOR SPECIAL EDUCATION PURPOSES:

(1) The school district shall provide special education services to students enrolled in public charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district.

(2) The school district shall retain any federal or state aid attributable to a student with a disability attending a public charter school in proportion to the level of services for such student with a disability that the school district provides directly or indirectly.

(3) At either party's request, however, the public charter school and the school district may negotiate and include in a contract alternate arrangements for the provision of and payment for special education services. If the public charter school and the school district have negotiated to allow the public charter school to provide special education services, the proportionate share of state and federal resources generated by such students shall be directed by the school district to the public charter school enrolling such students.

(G) Generally Accepted Accounting Principles – Independent Audit

(1) A public charter school shall adhere to Generally Accepted Accounting Principles.

(2) A public charter school shall annually engage an external auditor to do an independent audit of the school's finances. A public charter school shall file a copy of each audit report and accompanying management letter to its authorizer by [INSERT DATE].

147 (H) Transportation Funding

- 148 (1) The state department of education shall disburse state transportation funding to a school
149 district for each of the public charter school students residing in the school district on the
150 same basis and in the same manner as it is paid to school districts. A school district shall
151 disburse state transportation funding to a public charter school in proportion to the
152 amount generated by the school's students who reside in the school district.
- 153 (2) A public charter school may enter into a contract with a school district or private provider
154 to provide transportation to the school's students.

155 (I) Budget Reserves

- 156 (1) Any monies received by a public charter school from any source and remaining in the
157 public charter school's accounts at the end of any budget year shall remain in the public
158 charter school's accounts for use by the public charter school during subsequent budget
159 years.

160 (J) Ability to Accept Gifts, Donations, and Grants

- 161 (1) Nothing in this article shall be construed to prohibit any person or organization from
162 providing funding or other assistance to the establishment or operation of a public
163 charter school. The governing board of a public charter school is authorized to accept
164 gifts, donations, and grants of any kind made to the public charter school and to expend
165 or use such gifts, donations, and grants in accordance with the conditions prescribed by
166 the donor; provided, however, that no gift, donation, or grant may be accepted if subject
167 to a condition that is contrary to any provision of law or term of the charter contract.

168 *OPTION 2: FUNDING FLOWS FROM THE STATE DIRECTLY TO PUBLIC CHARTER SCHOOLS*

169 (A) Enrollment

- 170 (1) Each public charter school shall certify to the state department of education its student
171 enrollment in the same manner as school districts.

172 (B) Operational Funding

- 173 (1) For a public charter school authorized by a school district, the state shall pay directly to
174 the public charter school for each student enrolled in the public charter school an
175 amount for that student equal to one hundred percent of the amount calculated pursuant

to the state's funding formula for the student's resident school district, notwithstanding any oversight fee reductions pursuant to this Act.

- (2) For a public charter school authorized by an entity other than a school district, the state department of education shall withhold from the state equalization payments for each school district with students residing in the school district and attending the public charter school an amount equal to one hundred percent of the amount calculated pursuant to the state's funding formula for each student in the resident school district multiplied by the number of students enrolled in the public charter school from the resident school district. The state department of education shall send the sum of these withholdings to the public charter school, notwithstanding any oversight fee reductions pursuant to this Act.

(C) Payment Schedule

- (1) Payments made pursuant to this section shall be made by the state in twelve substantially equal installments each year beginning on the first business day of July and every month thereafter. Amounts payable under this section shall be determined by the state department of education. Amounts payable to a public charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter contract. Such projections shall be reconciled with the actual enrollment at the end of the school's first year of operation, and any necessary adjustments shall be made to payments during the school's second year of operation.

(D) Categorical Funding

- (1) The state shall direct the proportionate share of moneys generated under federal and state categorical aid programs to public charter schools serving students eligible for such aid. The state shall ensure that public charter schools with rapidly expanding enrollments are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars. Each public charter school that serves students who may be eligible to receive services provided through such programs shall comply with all reporting requirements to receive the aid.

(E) Special Education Funding

205 *FOR PUBLIC CHARTER SCHOOLS THAT ARE THEIR OWN LEAS FOR SPECIAL EDUCATION*
206 *PURPOSES:*

- 207 (1) The state shall pay directly to a public charter school any federal or state aid attributable
208 to a student with a disability attending the school.
- 209 (2) At either party's request, a public charter school and its authorizer may negotiate and
210 include in the charter contract alternate arrangements for the provision of and payment
211 for special education services.

212 *FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF NON-DISTRICT AUTHORIZER LEAS FOR*
213 *SPECIAL EDUCATION PURPOSES:*

- 214 (1) The state shall pay directly to a public charter school any federal or state aid attributable
215 to a student with a disability attending the school.
- 216 (2) A public charter school shall pay to its authorizer any federal or state aid attributable to a
217 student with a disability attending a public charter school in proportion to the level of
218 services for such student that the authorizer provides directly or indirectly.
- 219 (3) At either party's request, a public charter school and its authorizer may negotiate and
220 include in the charter contract alternate arrangements for the provision of and payment
221 for special education services, including, but not necessarily limited to, a reasonable
222 reserve not to exceed five percent of the authorizer's total budget for providing special
223 education services. The reserve shall only be used by the authorizer to offset excess costs
224 of providing services to students with disabilities enrolled in one of its public charter
225 schools.

226 *FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF SCHOOL DISTRICT LEAS FOR SPECIAL*
227 *EDUCATION PURPOSES:*

- 228 (1) The school district shall provide special education services to students enrolled in public
229 charter schools on the same basis as such services are provided to students enrolled
230 in other public schools of the school district.
- 231 (2) The school district shall retain any federal or state aid attributable to a student with a
232 disability attending a public charter school in proportion to the level of services for such
233 student with a disability that the school district provides directly or indirectly.
- 234 (3) At either party's request, however, the public charter school and the school district may

negotiate and include in a contract alternate arrangements for the provision of and payment for special education services. If the public charter school and the school district have negotiated to allow the public charter school to provide special education services, the proportionate share of state and federal resources generated by such students shall be directed by the school district to the public charter school enrolling such students.

(F) Generally Accepted Accounting Principles – Independent Audit

- (1) A public charter school shall adhere to Generally Accepted Accounting Principles.
- (2) A public charter school shall annually engage an external auditor to do an independent audit of the school's finances. A public charter school shall file a copy of each audit report and accompanying management letter to its authorizer by [INSERT DATE].

(G) Transportation Funding

- (1) The state department of education shall disburse state transportation funding to a public charter school on the same basis and in the same manner as it is paid to school districts.
- (2) A public charter school may enter into a contract with a school district or private provider to provide transportation to the school's students.

(H) Budget Reserves

- (1) Any monies received by a public charter school from any source and remaining in the public charter school's accounts at the end of any budget year shall remain in the public charter school's accounts for use by the public charter school during subsequent budget years.

(I) Ability to Accept Gifts, Donations, and Grants

- (1) Nothing in this article shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a public charter school. The governing board of a public charter school is authorized to accept gifts, donations, and grants of any kind made to the public charter school and to expend or use such gifts, donations, and grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation, or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter contract.

OPTION 3: FUNDING FLOWS FROM THE STATE TO AUTHORIZERS TO PUBLIC CHARTER SCHOOLS

264 (A) Enrollment

- 265 (1) Each authorizer shall certify to the state department of education the student enrollment
266 for that year for each of its public charter schools in the same manner as school districts.

267 (B) Operational Funding

- 268 (1) For a public charter school authorized by a school district, the school district shall pay
269 directly to the public charter school for each student enrolled in the school an amount for
270 that student equal to one hundred percent of the amount calculated pursuant to the
271 state's funding formula for the student's resident school district, notwithstanding any
272 oversight fee reductions pursuant to this Act.

- 273 (2) For a public charter school authorized by an entity other than a school district, the state
274 department of education shall withhold from the state equalization payments for each
275 school district with students residing in the school district and attending the public
276 charter school an amount equal to one hundred percent of the amount calculated
277 pursuant to the state's funding formula for each student in the resident school district
278 multiplied by the number of students enrolled in the public charter school from the
279 resident school district. The state department of education shall send the sum of these
280 withholdings to the authorizer. The authorizer shall forward the sum of these
281 withholdings to each public charter school, notwithstanding any oversight fee reductions
282 pursuant to this Act.

283 (C) Payment Schedule

- 284 (1) Payments made pursuant to this section shall be made by an authorizer in twelve
285 substantially equal installments each year beginning on the first business day of July and
286 every month thereafter. Amounts payable under this section shall be determined by the
287 state department of education. Amounts payable to a public charter school in its first year
288 of operation shall be based on the projections of initial-year enrollment set forth in the
289 charter contract. Such projections shall be reconciled with the actual enrollment at the
290 end of the school's first year of operation, and any necessary adjustments shall be made
291 to payments during the school's second year of operation.

292 (D) Sanctions for Failure to Make Payments

(1) In the event of the failure of an authorizer to make payments required by this section, the state treasurer shall deduct from any state funds which become due to such an authorizer an amount equal to the unpaid obligation. The treasurer shall pay over such sum to the public charter school upon certification of the state department of education. The state department of education shall promulgate regulations to implement the provisions of this section.

(E) Categorical Funding

(1) An authorizer shall direct the proportionate share of moneys generated under federal and state categorical aid programs to public charter schools serving students eligible for such aid. The state shall ensure that public charter schools with rapidly expanding enrollment are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars. Each public charter school that receives such aid shall comply with all reporting requirements to receive the aid.

(F) Special Education Funding

FOR PUBLIC CHARTER SCHOOLS THAT ARE THEIR OWN LEAS FOR SPECIAL EDUCATION PURPOSES:

- (1) An authorizer shall pay directly to the public charter school any federal or state aid attributable to a student with a disability attending the school.
- (2) At either party's request, a public charter school and its authorizer may negotiate and include in the charter contract alternate arrangements for the provision of and payment for special education services.

FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF NON-DISTRICT AUTHORIZER LEAS FOR SPECIAL EDUCATION PURPOSES:

- (1) The authorizer shall pay directly to a public charter school any federal or state aid attributable to a student with a disability attending the school.
- (2) A public charter school shall pay to its authorizer any federal or state aid attributable to a student with a disability attending a public charter school in proportion to the level of services for such student that the authorizer provides directly or indirectly.
- (3) At either party's request, a public charter school and its authorizer may negotiate and include in the charter contract alternate arrangements for the provision of and payment for

special education services, including, but not necessarily limited to, a reasonable reserve not to exceed five percent of the authorizer's total budget for providing special education services. The reserve shall only be used by the authorizer to offset excess costs of providing services to students with disabilities enrolled in one of its public charter schools.

FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF SCHOOL DISTRICT LEAS FOR SPECIAL EDUCATION PURPOSES:

- (1) The school district shall provide special education services to students enrolled in public charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district.
- (2) The state shall disburse to a school district any federal or state aid attributable to a student with a disability attending a public charter school in proportion to the level of services for such student with a disability that the school district provides directly or indirectly.
- (3) At either party's request, however, the public charter school and the school district may negotiate and include in a contract alternate arrangements for the provision of and payment for special education services. If the public charter school and the school district have negotiated to allow the public charter school to provide special education services, the proportionate share of state and federal resources generated by such students shall be directed by the school district to the public charter school enrolling such students.

(G) Generally Accepted Accounting Principles – Independent Audit

- (1) A public charter school shall adhere to Generally Accepted Accounting Principles.
- (2) A public charter school shall annually engage an external auditor to do an independent audit of the school's finances. A public charter school shall file a copy of each audit report and accompanying management letter to its authorizer by [INSERT DATE].

(H) Transportation Funding

- (1) The state department of education shall disburse state transportation funding to an authorizer for each of its public charter school students on the same basis and in the same manner as it is paid to school districts. An authorizer shall disburse state transportation funding to a public charter school in proportion to the amount generated by the school's students.

(2) A public charter school may enter into a contract with a school district or private provider to provide transportation to the school's students.

(I) Budget Reserves

(1) Any monies received by a public charter school from any source and remaining in the public charter school's accounts at the end of any budget year shall remain in the public charter school's accounts for use by the public charter school during subsequent budget years.

(J) Ability to Accept Gifts, Donations, and Grants

(1) Nothing in this article shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a public charter school. The governing board of a public charter school is authorized to accept gifts, donations, and grants of any kind made to the public charter school and to expend or use such gifts, donations, and grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation, or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter contract.

Section 3. {Facilities}

[In this model law, we provide a menu of approaches for handling this issue in state law, most of which should be included in a given state's law.]

(A) Per-Student Facility Allowance

(1) The per-student facility allowance for public charter schools shall be determined as follows: the total capital costs for public schools in the state over the past five years shall be divided by the total student count in the state over the past five years.

(2) The actual facility allowance payments to be received by each public charter school shall be determined as follows: the per-student facility allowance shall be multiplied by the number of students estimated to be attending each public charter school.

(B) Public Charter School Facility Grant Program

(1) The state board of education shall establish, within available bond authorizations, a grant program to assist public charter schools in financing school building projects, general improvements to school buildings, and repayment of debt for school building projects.

Public charter schools may apply for such grants to the state board of education at such time and in such manner as the state board of education prescribes. The state board of education shall give preference to applications that provide for matching funds from non-statesources.

(2) For the purposes described in subsection (3) of this section, the [INSERT NAME OF APPROPRIATE STATE BONDING AUTHORITY] shall have the power, from time to time, to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate [INSERT DOLLAR AMOUNT] provided [INSERT DOLLAR AMOUNT] of said authorization shall be effective [INSERT DATE].

(3) The proceeds of the sale of said bonds, to the extent of the amount stated in subsection (2) of this section, shall be used by the state board of education for the purpose of grants pursuant to subsection (1).

(4) Bonds issued pursuant to this section shall be general obligations of the state and the full faith and credit of the state are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the state treasurer shall pay such principal and interest as the same become due.

(C) Public Charter School Facility Revolving Loan Program

(1) The public charter school facility revolving loan program is hereby created in the state treasury. The public charter school facility revolving loan program shall be comprised of federal funds obtained by the state for public charter schools and any other funds appropriated or transferred to the fund by the state. Funds appropriated to the public charter school facility revolving loan program shall remain available for the purposes of the program until re-appropriated or reverted by the general assembly.

(2) Loans may be made from moneys in the public charter school facility revolving loan program to a public charter school, upon application by a public charter school and approval by the state board of education or its designee. Money loaned to a public charter school pursuant to this section shall be for construction, purchase, renovation, and maintenance of public charter school facilities. No loan to a public charter school shall

exceed [INSERT DOLLAR AMOUNT] over [INSERT NUMBER OF YEARS]. A public charter school may receive multiple loans from the public charter school facility revolving loan program, as long as the total amount received from the program over [INSERT NUMBER OF YEARS] does not exceed [INSERT DOLLAR AMOUNT].

(3) The state board of education or its designee may consider all of the following when making a determination as to the approval of a public charter school's loan application:

(a) Soundness of the financial business plans of the applicant public charter school.

(b) Availability to the public charter school of other sources of funding.

(c) Geographic distribution of loans made from the public charter school facility revolving loan program.

(d) The impact that loans received pursuant to this section will have on the public charter school's receipt of other private and public financing.

(e) Plans for innovatively enhancing or leveraging funds received pursuant to this section, such as loan guarantees or other types of credit enhancements.

(f) The financial needs of the public charter school.

(4) Commencing with the first fiscal year following the fiscal year the public charter school receives the loan, the [INSERT NAME OF APPROPRIATE STATE AGENCY] shall deduct from apportionments made to the public charter school, as appropriate, an amount equal to the annual repayment of the amount loaned to the public charter school under this section and pay the same amount into the public charter school facility revolving loan program in the state treasury. Repayment of the full amount loaned to the public charter school shall be deducted by the [INSERT NAME OF APPROPRIATE STATE AGENCY] in equal annual amounts over a number of years agreed upon between the public charter school and the state board of education or its designee, not to exceed [INSERT NUMBER OF YEARS] for any loan.

(5) Notwithstanding other provisions of law, a loan may be made to a public charter school pursuant to this section only in the case of a public charter school that is incorporated.

(6) Notwithstanding other provisions of law, in the case of default of a loan made directly to a public charter school pursuant to this section, the public charter school shall be solely liable for repayment of the loan.

441 (D) Bonding Authority

442 *[Public charter schools should either have equal access to all of the relevant bonding authorities*
443 *in a state or have their own bonding authority. For the first option, a state must amend the*
444 *appropriate section of the law (e.g., state health and educational facility authority section) to*
445 *clarify that public charter schools are eligible to obtain tax-exempt financing from the relevant*
446 *authority. For the second option, see language below.]*

447 (1) As used in this section:

448 (a) "Authority" means the state public charter school finance authority created by this
449 section.

450 (b) "Obligations" mean any notes, debentures, revenue bonds, or other evidences of
451 financial indebtedness, except general obligation bonds.

452 (c) "Project" means:

453 (i) Any building, structure, or property owned, or to be acquired, by a public charter
454 school for any of its educational purposes and the related appurtenances,
455 easements, rights-of-way, improvements, paving, utilities, landscaping, parking
456 facilities, and lands; or

457 (ii) Any capital equipment owned, or to be acquired, by a public charter school for any
458 of its educational purposes, interests in land, and grounds, together with the personal
459 property necessary, convenient, or appurtenant to them.

460 (2) There is created a body politic and corporate known as the state public charter school
461 finance authority. The authority is created to provide an efficient and cost-effective
462 method of financing public charter school facilities.

463 (3) The governing board of the authority shall be composed of:

464 (a) The governor or the governor's designee;

465 (b) The state treasurer; and

466 (c) The state superintendent of public instruction or the state superintendent's designee.

467 (4) Upon request, the state board of education shall provide staff support to the authority.

468 (5) The authority shall have perpetual succession as a body politic and corporate.

469 (6) The authority may:

470 (a) Sue and be sued in its own name;

471 (b) Have, and alter at will, an official seal;

- 472 (c) Receive and accept aid or contributions from any source, including the United States or
473 this state, in the form of money, property, labor, or other things of value to be held,
474 used, and applied to carry out the purposes of this part, subject to the conditions upon
475 which the aid and contributions are made, for any purpose consistent with this part;
476 (d) Exercise the power to borrow money and issue obligations, except the authority may
477 only exercise powers to finance a project as defined in state law;
478 (e) Employ advisers, consultants, and agents, including financial experts, independent legal
479 counsel, and any advisers, consultants, and agents as may be necessary in its judgment
480 and fix their compensation;
481 (f) Make and execute contracts and other instruments necessary or convenient for the
482 performance of its duties and the exercise of its powers and functions; and
483 (g) Have and exercise any other powers or duties that are necessary or appropriate to carry
484 out and effectuate the purposes of this chapter.

485 (7) If the authority is dissolved at any time, for any reason, all funds, property, rights, and
486 interests of the authority, following the satisfaction of the authority's obligations, shall
487 immediately vest in and become the property of the state, which shall succeed to all rights
488 of the authority subject to any encumbrances which may then exist on any particular
489 properties.

490 (8) None of the net earnings of the authority shall inure to the benefit of any private person.

491 (E) Moral Obligation of the State

492 (1) The general assembly hereby finds and declares that its intent in enacting this section is
493 to support public charter schools and public charter school capital construction by helping
494 qualified public charter schools that choose to have the [INSERT NAME OF BONDING
495 AUTHORITY] issue bonds on their behalf obtain more favorable financing terms for the
496 bonds.

497 (2) If the [INSERT NAME OF BONDING AUTHORITY] has issued bonds on behalf of a public
498 charter school that defaults on its debt service payment obligations, the board of
499 directors of the authority shall submit to the governor a certificate certifying any amount
500 of moneys required to fulfill the school's debt service payment obligations. The governor

shall submit a request for appropriations in an amount sufficient to fulfill the school's debt service payment obligations and the general assembly may, but shall not be required to, appropriate moneys for said purpose. If, in its sole discretion, the general assembly appropriates any moneys for said purpose, the aggregate outstanding principal amount of bonds for which moneys may be appropriated for said purpose shall not exceed [INSERT DOLLAR AMOUNT].

(F) Access to State Facilities Programs for Non-Charter Public Schools

[Public charter schools should have equal access to all of the existing state facilities programs for traditional public schools in a state. To implement this item, a state must amend the relevant section of the law (e.g., public school capital construction assistance fund section) to clarify that public charter schools are eligible to obtain funding from the relevant program.]

(G) Credit Enhancement Fund

- (1) [INSERT DOLLAR AMOUNT] shall be set aside for a credit enhancement fund for public charter schools to be administered by the state board of education.
- (2) Using the amounts described in paragraph (1), the state board of education shall make and disburse grants to eligible nonprofit corporations to carry out the purposes described in paragraph (3).
- (3) The recipient of a grant under this fund shall use the monies provided under the grant to carry out activities to assist public charter schools in:
 - (a) Obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;
 - (b) Obtaining financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs;
 - (c) Enhancing the availability of loans (including mortgages) and bonds; and
 - (d) Obtaining lease guarantees.
- (4) Funds provided under a grant under this subparagraph may not be used by a recipient to make direct loans or grants to public charter schools.

530 (H) Access to District Facilities and Land

- 531 (1) A public charter school shall have a right of first refusal to purchase or lease at or below
532 fair market value a closed public school facility or property or unused portions of a public
533 school facility or property located in a school district from which it draws its students if
534 the school district decides to sell or lease the public school facility or property.

535 (I) Contracting for Use of Facilities

- 536 (1) A public charter school may negotiate and contract at or below fair market value with a
537 school district, the governing body of a state college or university or public community
538 college, or any other public or for-profit or nonprofit private entity for the use of facility
539 for a school building.

540 (J) Use of Other Facilities under Preexisting Zoning and Land Use Designations

- 541 (1) Library, community service, museum, performing arts, theatre, cinema, church,
542 community college, college, and university facilities may provide space to public charter
543 schools within their facilities under their preexisting zoning and land use designations.

544 (K) Exemptions from Ad Valorem Taxes and Certain Fees

- 545 (1) Any facility, or portion thereof, used to house a public charter school shall be exempt
546 from ad valorem taxes.
- 547 (2) Public charter school facilities are exempt from assessments of fees for building
548 permits, fees for building and occupational licenses, impact fees, service availability
549 fees, and assessments for special benefits.

Public Charter School Operations and Autonomy Model Legislation

Summary

The purpose of this legislation is to define the requirements and capabilities of public charter schools in school districts.

Legislation

Section 1. {Definitions}

(A) An “applicant” means any person or group that develops and submits an application for a public charter school to an authorizer.

(B) An “application” means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status.

(C) An “at-risk student” means a student who has an economic or academic disadvantage that requires special services and assistance to succeed in educational programs. The term includes, but is not necessarily limited to, students who are members of economically disadvantaged families, students who are identified as having special educational needs, students who are limited in English proficiency, students who are at risk of dropping out of high school, and students who do not meet minimum standards of academic proficiency.

(D) An “authorizer” means an entity authorized under this Act to review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to renew, not renew, or revoke charter contracts.

(E) A “charter contract” means a fixed-term, renewable contract between a public charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(F) A “conversion public charter school” means a charter school that existed as a non-charter public school before becoming a public charter school.

(G) An “education service provider” means a for-profit education management organization, non-profit charter management organization, school design provider, or any other partner entity with

27 which a public charter school intends to contract for educational design, implementation, or
28 comprehensive management.

29 (H) A “governing board” means the independent board of a public charter school that is party to the
30 charter contract with the authorizer and whose members have been elected or selected pursuant to
31 the school’s application.

32 (I) A “local school board” means a school board exercising management and control of a local school
33 district pursuant to the state constitution and state statutes.

34 (J) A “local school district” means a public agency that establishes and supervises one or more public
35 schools within its geographical limits pursuant to the state constitution and state statutes.

36 (K) A “non-charter public school” means a public school that is under the direct management,
37 governance, and control of a local school board or the state.

38 (L) A “parent” means a parent, guardian, or other person or entity having legal custody of a child.

39 (M) A “public charter school” means a public school that:

40 (1) Has autonomy over decisions including, but not limited to, matters concerning finance,
41 personnel, scheduling, curriculum, and instruction;

42 (2) Is governed by an independent governing board;

43 (3) Is established and operating under the terms of a charter contract between the school’s
44 board and its authorizer;

45 (4) Is a school to which parents choose to send their children;

46 (5) Is a school that admits students on the basis of a lottery if more students apply for
47 admission than can be accommodated;

48 (6) Provides a program of education that includes one or more of the following: pre-school,

pre-kindergarten, any grade or grades from kindergarten through 12th grade, and adult community, continuing, and vocational education programs;

(7) Operates in pursuit of a specific set of educational objectives as defined in its charter contract; and

(8) Operates under the oversight of its authorizer in accordance with its charter contract.

(N) A "start-up public charter school" means a public charter school that did not exist as a non-charter public school prior to becoming a public charter school.

(O) A "student" means any child who is eligible for attendance in public schools in the state.

(P) A "virtual public charter school" means a public charter school that offers educational services predominantly through an on-line program.

Section 2. {Operations and Autonomy}

(A) Open Enrollment and Lottery Requirements

(1) A public charter school shall be open to any student residing in the state.

(2) A school district shall not require any student enrolled in the school district to attend a public charter school.

(3) A public charter school shall not limit admission based on ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability.

(4) A public charter school may limit admission to students within a given age group or grade level and may be organized around a special emphasis, theme, or concept as stated in the school's application.

(5) A public charter school shall enroll all students who wish to attend the school, unless the number of students exceeds the capacity of a program, class, grade level, or building.

(6) If capacity is insufficient to enroll all students who wish to attend the school, the public charter school shall select students through a lottery.

(B) Enrollment Preferences

(1) Any non-charter public school converting partially or entirely to a public charter school shall adopt and maintain a policy giving enrollment preference to students who reside within the former attendance area of that public school.

(2) A public charter school shall give enrollment preference to students enrolled in the public charter school the previous school year and to siblings of students already enrolled in the public charter school. An enrollment preference for returning students excludes those students from entering into a lottery.

(3) A public charter school may give enrollment preference to children of a public charter school's founders, governing board members, and full-time employees, so long as they constitute no more than 10 percent of the school's total student population.

(4) This section does not preclude the formation of a public charter school whose mission is focused on serving students with disabilities, students of the same gender, students who pose such severe disciplinary problems that they warrant a specific educational program, or students who are at risk of academic failure. If capacity is insufficient to enroll all students who wish to attend such school, the public charter school shall select students through a lottery.

90 (C) Credit Transferability

91 (1) If a student who was previously enrolled in a public charter school enrolls in another public
92 school in this state, the student's new school shall accept credits earned by the student in
93 courses or instructional programs at the public charter school in a uniform and consistent
94 manner and according to the same criteria that are used to accept academic credits from other
95 public schools.

96 (D) Information to Parents and the General Public

97 (1) A school district shall provide or publicize to parents and the general public information
98 about public charter schools authorized by the district as an enrollment option within the
99 district to the same extent and through the same means that the district provides and
100 publicizes information about non-charter public schools in the district.

101 (E) Determination of Student Capacity of Public Charter Schools

102 (1) An authorizer may not restrict the number of students a public charter school may enroll.
103 The capacity of the public charter school shall be determined annually by the governing board
104 of the public charter school in conjunction with the authorizer and in consideration of the
105 public charter school's ability to facilitate the academic success of its students, to achieve the
106 other objectives specified in the charter contract, and to ensure that its student enrollment
107 does not exceed the capacity of its facility or site.

108 (F) Legal Status of Public Charter School

109 (1) Notwithstanding any provision of law to the contrary, to the extent that any provision of

this Act is inconsistent with any other state or local law, rule, or regulation, the provisions of this Act shall govern and be controlling.

(2) A public charter school shall be a non-profit education organization.

(3) A public charter school shall be subject to all federal laws and authorities enumerated herein or arranged by charter contract with the school's authorizer, where such contracting is consistent with applicable laws, rules, and regulations.

(4) Except as provided in this Act, a public charter school shall not be subject to the state's education statutes or any state or local rule, regulation, policy, or procedure relating to non-charter public schools within an applicable local school district regardless of whether such rule, regulation, policy, or procedure is established by the local school board, the state board of education, or the state department of education.

(5) A charter contract may consist of one or more schools, to the extent approved by the authorizer and consistent with applicable law. Each public charter school that is part of a charter contract shall be separate and distinct from any others.

(6) A single governing board may hold one or more charter contracts. Each public charter school that is part of a charter contract shall be separate and distinct from any others.

(G) Local Educational Agency Status *[The 44 jurisdictions with public charter school laws vary greatly in how they address the local educational agency (LEA) status of public charter schools. In this model legislation, we provide two options for handling this issue in state law.]*

OPTION 1: A PUBLIC CHARTER SCHOOL IS A LOCAL EDUCATIONAL AGENCY

(1) A public charter school shall function as a Local Educational Agency ("LEA"). A public charter

school shall be responsible for meeting the requirements of LEAs under applicable federal, state, and local laws, including those relating to special education. LEA status shall not preclude a public charter school from developing partnerships with districts for services, resources, and programs by mutual agreement or formal contract.

(2) A public charter school shall have primary responsibility for special education at the school, including identification and service provision. It shall be responsible for meeting the needs of enrolled students with disabilities. In instances where a student's individualized education program team determines that a student's needs are so profound that they cannot be met in the public charter school and that the public charter school cannot provide a free, appropriate public education to that student, the student's district of residence shall place the student in a more appropriate setting.

OPTION 2: A PUBLIC CHARTER SCHOOL IS NOT A LOCAL EDUCATIONAL AGENCY

(1) The [INSERT NAME OF ENTITY] of a public charter school is the public charter school's Local Educational Agency ("LEA"). A public charter school is a school with that LEA.

(2) The [INSERT NAME OF ENTITY] retains responsibility for special education and shall serve students in public charter schools in a manner consistent with LEA obligations under applicable federal, state, and local law.

(H) Powers of Public Charter School

(1) A public charter school shall have all the powers necessary for carrying out the terms of its charter contract including the following powers:

- (a) To receive and disburse funds for school purposes;
- (b) To secure appropriate insurance and to enter into contracts and leases, free from prevailing wage laws;
- (c) To contract with an education service provider for the management and operation of the public charter school so long as the school's governing board retains oversight authority over the school;
- (d) To incur debt in reasonable anticipation of the receipt of public or private funds;
- (e) To pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;
- (f) To solicit and accept any gifts or grants for school purposes subject to applicable laws and the terms of its charter contract;
- (g) To acquire real property for use as its facility or facilities, from public or private sources; and,
- (h) To sue and be sued in its own name.

(I) General Requirements

- (1) A public charter school shall not discriminate against any person on the basis of race, creed, color, sex, disability, or national origin or any other category that would be unlawful if done by a non- charter public school.
- (2) No public charter school may engage in any sectarian practices in its educational program, admissions or employment policies, or operations.

(3) A public charter school shall not discriminate against any student on the basis of national-
origin minority status or limited proficiency in English. Consistent with federal civil rights laws,
public charter schools shall provide limited English proficient students with appropriate
services designed to teach them English and the general curriculum.

(4) A public charter school shall not charge tuition and may only charge such fees as may be
imposed on other public schools in the state.

(5) The powers, obligations, and responsibilities set forth in the charter contract cannot be
delegated or assigned by either party.

(J) Applicability of Other Laws, Rules, and Regulations

(1) Public charter schools shall be subject to the same civil rights, health, and safety
requirements applicable to other public schools in the state, except as otherwise specifically
provided in this Act.

(2) Public charter schools shall be subject to the student assessment and accountability
requirements applicable to other public schools in the state, but nothing herein shall preclude
a public charter school from establishing additional student assessment measures that go
beyond state requirements if the school's authorizer approves such measures.

(3) Public charter school governing boards shall be subject to and comply with state open
meetings and freedom of information laws.

(K) Public Charter School Employees

(1) Public charter schools shall comply with applicable federal laws, rules, and regulations

regarding the qualification of teachers and other instructional staff. In accordance with Section 2, (G), (4), teachers in public charter schools shall be exempt from state teacher certification requirements.

(2) Employees in public charter schools shall have the same rights and privileges as other public school employees except as otherwise stated herein.

(3) Employees in public charter schools are eligible for participation in retirement and other benefits programs of the state, if the public charter school chooses to participate.

(4) Teachers and other school personnel, as well as governing board trustees, shall be subject to criminal history record checks and fingerprinting requirements applicable to other public schools.

(5) Public charter school employees cannot be required to be members of any existing collective bargaining agreement between a school district and its employees. A public charter school may not interfere, however, with laws and other applicable rules protecting the rights of employees to organize and be free from discrimination.

(L) Access to Extra-Curricular and Interscholastic Activities

(1) A public charter school shall be eligible for state-sponsored or district-sponsored interscholastic leagues, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as non-charter public schools.

(2) A public charter school student is eligible to participate in extracurricular activities not

offered by the student's school at:

(a) The school within whose attendance boundaries the student's custodial parent or legal guardian resides; or

(b) The non-charter public school from which the student withdrew for the purpose of attending a public charter school.

(3) A public charter school student is eligible for extracurricular activities at a non-charter public school consistent with eligibility standards as applied to full-time students of the non-charter public school.

(4) A school district or non-charter public school may not impose additional requirements on a public charter school student to participate in extracurricular activities that are not imposed on full-time students of the non-charter public school.

(5) When selection to participate in an extracurricular activity at a non-charter public school is made on a competitive basis, a public charter school student is eligible to try out for and participate in the activity as provided in this section.

(6) The state board of education shall make rules establishing fees for public charter school students' participation in extracurricular activities at non-charter public schools. The rules shall provide that:

(a) Public charter school students pay the same fees as other students to participate in extracurricular activities;

(b) Public charter school students are eligible for fee waivers similar to other students;

(c) For each public charter school student who participates in an extracurricular activity at a non-charter public school, the public charter school shall pay a share of the non-charter public school's costs for the extracurricular activity; and

(d) A public charter school's share of the costs of having one or more students participate in an extracurricular activity at non-charter public schools shall reflect state and local tax revenues expended, except capital facilities expenditures, for such extracurricular activities in a non-charter public school divided by total student enrollment of the non-charter public school.

(7) In determining a public charter school's share of the costs of an extracurricular activity under Subsections (6)(c) and (d), the state board of education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

The Parental Choice Scholarship Program Act (Means-Tested Eligibility)

Summary

The Parental Choice Scholarship Program Act creates a scholarship program that provides children from low- and middle-income families the option to attend the public or private elementary or secondary school of their parents' choice.

Model Legislation

Section 1. {The Parental Choice Scholarship Program}

Section 2. {Definitions}

(A) "Program" means The Parental Choice Scholarship Program created in this subchapter.

(B) "Eligible student" means either:

(1) any elementary or secondary student who was eligible to attend a public school in [state] in the preceding semester or is starting school in [state] for the first time¹ and is a member of a household whose total annual income does not exceed an amount equal to 2 times the income standard used to qualify for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq.² Once a student receives a scholarship under this program, the student will remain eligible regardless of household income until the student graduates high school or reaches 21 years.

OR

(2) is starting school in [state] for the first time and is a sibling of a student already enrolled in the program.

(C) "Parent" includes a guardian, custodian, or other person with the authority to act on behalf of the child.

(D) "Department" means the state Department of Public Instruction or an organization chosen by the state.³

(E) "Resident school district" means the public school district in which the student resides.

(F) "Participating school" means either a public school outside of the resident school district, a school run by another public entity, or any private school that provides education to elementary and/or secondary students and has notified the Department of its intention to participate in the program and comply with the program's requirements.⁴

Section 3. {Basic Elements of The Parental Choice Scholarship Program}

- (A) Any parent of an eligible student shall qualify for a scholarship from the state for their child to enroll in and attend a participating school.
- (B) Any eligible student may attend a participating school until his or her graduation from high school or his or her 21st birthday, whichever comes first.
- (C) The scholarship amount shall be equal to the lesser of:
- (1) the participating school's annual cost per pupil, including both operational and capital facility costs; or
 - (2) the dollar amount the resident school district would have received to serve and educate the eligible student from state and local sources had the student enrolled there.⁵
- (D) The scholarship is the entitlement of the eligible student under the supervision of the student's parent and not that of any school.
- (E) A participating school may not refund, rebate, or share a student's scholarship with a parent or the student in any manner. A student's scholarship may only be used for educational purposes.
- (F) Eligible students who qualify for the federal free or reduced-price lunch program may attend any participating school in the Parental Choice Scholarship Program at no charge to the student. That is, the scholarship under this subchapter would cover the cost of all tuition and mandatory fees for such students. Participating schools may charge the difference between the scholarship amount and all tuition and mandatory fees for eligible students from households with incomes that exceed the annual income required to qualify for the free or reduced-price lunch program.⁶
- (G) A participating school that has more eligible students applying than spaces available shall fill the available spaces by a random selection process, except that participating schools may give preference to siblings of enrolled students and previously enrolled scholarship students under this subchapter.⁷
- (H) If a student is denied admission to a participating school because it has too few available spaces, the eligible student may transfer his or her scholarship to a participating school that has spaces available.
- (I) A participating student shall be counted in the enrollment figures for his or her resident

59 school district for the purposes of calculating state aid to the resident school district. The funds
60 needed for a scholarship shall be subtracted from the state school aid payable to the student's
61 resident school district. Any aid the school district would have received for the student in excess of the
62 funds needed for a scholar- ship will be kept by the state.⁸

63 (J) The Department shall adopt rules consistent with this Act regarding:

- 64 (1) the eligibility and participation of private schools, including timelines that will maximize
65 student and public and private school participation;
66 (2) the calculation and distribution of scholarships to eligible students;⁹ and
67 (3) the application and approval procedures for scholarships for eligible students and
68 participating schools.

69 **Section 4. {Accountability Standards for Participating Schools}**

70 (A) Administrative Accountability Standards. To ensure that students are treated fairly and kept
71 safe, all participating private schools shall:

- 72 (1) comply with all health and safety laws or codes that apply to private schools;
73 (2) hold a valid occupancy permit if required by their municipality;
74 (3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981;¹⁰
75 and
76 (4) conduct criminal background checks on employees. The participating school then shall:
77 (a) exclude from employment any people not permitted by state law to work in a private
78 school; and
79 (b) exclude from employment any people that might reasonably pose a threat to the
80 safety of students.¹¹

81 (B) Financial Accountability Standards. To ensure that public funds are spent appropriately, all
82 participating, private schools shall demonstrate their financial accountability.

- 83 (1) If a participating school receives less than \$250,000 from student scholarships related to
84 this program, they must demonstrate their financial accountability by:
85 (a) annually submitting to the Department a financial information report for the school
86 that complies with uniform financial accounting standards established by the
87 Department and conducted by a certified public accountant;¹² and

(b) having an auditor certify that the report is free of material misstatements and fairly represents the costs per pupil, including the costs of the testing required in subsection 4(C)(1)(a). The auditor's report shall be limited in scope to those records that are necessary for the Department to make payments to participating schools on behalf of parents for scholarships.

(2) If a participating school receives equal to or more than \$250,000 from student scholarships related to this program, they must demonstrate their financial accountability by:

(a) provide to the Department of Education a report on the results of an annual financial audit of its accounts and records conducted by an independent certified public accountant in accordance with auditing standards generally accepted in the United States, government auditing standards, and rules promulgated by the Department of Education. The audit report must include a report on financial statements presented in accordance with generally accepted accounting principles. Audit reports must be provided to the Department of Education within 180 days after completion of the participating school's fiscal year. The Department of Education shall review all audit reports submitted pursuant to this paragraph. The Department of Education shall request any significant items that were omitted in violation of a rule adopted by the Department of Education. The items must be provided within 45 days after the date of the request.

(3) Demonstrate their financial viability by showing they can repay any funds that might be owed the state, if they are to receive \$50,000 or more during the school year, by:

(a) filing with the Department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of the Parental Choice Scholarships expected to be paid during the school year to students admitted at the participating school; or

(b) filing with the Department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the Parental Choice Scholarships expected to be paid during the school

117 year to students admitted to the participating school.¹³

118 (C) Academic Accountability Standards. There must be sufficient information about the academic
119 impact Parental Choice Scholarships have on participating students in order to allow parents
120 and taxpayers to measure the achievements of the program, and therefore:

121 (1) participating schools shall:¹⁴

122 (a) annually administer either the state achievement tests or nationally norm- referenced
123 tests that measure learning gains in math and language arts, and provide for value-
124 added assessment, to all participating students in grades that require testing under the
125 state's accountability testing laws for public schools;

126 (b) provide the parents of each student with a copy of the results of the tests on an
127 annual basis, beginning with the first year of testing;

128 (c) provide the test results to the state or an organization chosen by the state¹⁵ on an
129 annual basis, beginning with the first year of testing;

130 (d) report student information that would allow the state to aggregate data by grade
131 level, gender, family income level, and race; and

132 (e) provide rates of high school graduation, college attendance and college graduation
133 for participating students to the Department or an organization chosen by the state in
134 a manner consistent with nationally recognized standards.

135 (2) the state or an organization chosen by the state shall:

136 (a) ensure compliance with all student privacy laws;

137 (b) collect all test results;

138 (c) provide the test results and associated learning gains to the public via a state Web site
139 after the third year of test and test-related data collection.¹⁶ The findings shall be
140 aggregated by the students' grade level, gender, family income level, number of years
141 of participation in the scholarship program, and race;¹⁷

142 (d) provide graduation rates to the public via a state Web site after the third year of test
143 and test-related data collection; and

144 (e) administer an annual parental satisfaction survey that shall ask parents of scholarship
145 students to express:

- (i) Their satisfaction with their child's academic achievement, including academic achievement at the school their child attended through the scholarship program versus academic achievement at the school previously attended;
- (ii) Their satisfaction with school safety at the schools their child attends through the scholarship program versus safety at the school previously attended;
- (iii) Whether their child would have been able to attend their school of choice without the scholarship; and
- (iv) Their opinions on other topics, items, or issues that the state finds would elicit information about the effectiveness of the scholarship program and the number of years their child has participated in the scholarship program.

(D) Participating School Autonomy. A participating, private school is autonomous and not an agent of the state or federal government and therefore:

- (1) the Department or any other state agency may not in any way regulate the educational program of a participating, private school that accepts a Parental Choice Scholarship;
- (2) the creation of The Parental Choice Scholarship Program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those necessary to enforce the requirements of the program; and
- (3) participating, private schools shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

Section 5. {Responsibilities of the Department of Public Instruction}

(A) The Department shall ensure that eligible students and their parents are informed annually of which schools will be participating in the Parental Choice Scholarship Program. Special attention shall be paid to ensuring that lower-income families are made aware of the program and their options.

(B) The Department shall create a standard application that students interested in the Parental Choice Scholarship Program can use to submit to participating schools to establish their eligibility and apply for admissions. Participating schools may require supplemental information from applicants. The Department shall ensure that the application is readily

available to interested families through various sources, including the Internet.

(C) The Department may bar a school from participation in the Parental Choice Scholarship Program if the Department establishes that the participating school has:

(1) intentionally and substantially misrepresented information required under Section 4; or

(2) routinely failed to comply with the accountability standards established in Section 4 (A) or (B);¹⁸ or

(3) failed to comply with Section 3(E); or

(4) failed to comply with Section 4(C); or

(5) failed to refund to the state any scholarship overpayments in a timely manner.

(D) If the Department decides to bar a participating school from the program, it shall notify eligible students and their parents of this decision as quickly as possible. Participating students attending a school barred by the Department shall retain scholarship program eligibility to attend another participating school.

(E) The Department shall adopt rules and procedures as necessary for the administration of the Parental Choice Scholarship Program.

Section 6. {Responsibilities of Resident School Districts}

(A) The resident school district shall provide a participating school that has admitted an eligible student under this program with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC Section 1232 g).

(B) The resident school district shall provide transportation for an eligible student to and from the participating school under the same conditions as the resident school district is required to provide transportation for other resident students to private schools as per current law. The resident school district will qualify for state transportation aid for each student so transported.

Section 7. {Effective Date} The Parental Choice Scholarship Program will be in effect beginning with the fall semester of the next school year.

Endnotes

These notes are intended to provide guidance to legislators on some of the key policy questions they will encounter in drafting and debating school choice legislation. In particular, we would draw your attention to the program evaluation language contained in Section X.

1. The definition for an eligible student in this model legislation includes children presently enrolled in a private school as well as children who have dropped out of school. The authors believe that all children from low- and middle-income families should receive public support for their education regardless of whether they are now attending a public or private school. Please note that this inclusive definition will significantly increase the number of students in your state receiving public support for their education and thereby either increase the costs to taxpayers or reduce the level of assistance available to support each student. Legislators wishing to draft a bill that saves money will want to limit eligibility largely to students who attended a public school in the last year. This savings will occur because private school costs are generally much less than public school costs.

In fact, the difference in public and private school costs makes it possible for legislators to spend the same amount on education while extending eligibility for these scholarships to additional students including children who are attending school in the state for the first time (such as kindergartners and new residents) and many of the low-income families whose children now attend private schools (because they generally use private schools at lower rates).

2. The definition for an eligible student is limited to those children in a household whose annual income does not exceed an amount equal to 2 times the income standard used to qualify for the federal free and reduced-price lunch program (FRL). The authors chose this standard for several reasons: 1) the FRL Program is familiar to both schools and many parents; 2) the verification procedures are simple and familiar to school administrators; 3) the income guidelines are used for a number of existing state and federal programs; 4) the federal government annually adjusts the income guidelines; and 5) the income guidelines are adjusted for family size.

The authors chose to use a multiple of this familiar income standard to recognize that many low- and middle-income families cannot afford the choice of a private school. Experience suggests that most parents' ability to choose a private school is quite limited until the household income approaches \$75,000 for a family of four. We have chosen a multiple of 2 times the FRL standard to reflect this reality. Legislators may wish to use different multiples of this standard but should keep in mind the financial burden many middle-class families face in paying for private schools.

The draft bill assumes there will be no cap on enrollment or funding. If either type of cap were to be applied, we recommend creating priority status for siblings and children from families eligible for the free and reduced price lunch program.

3. This bill designates the Department of Public Instruction as the agency regulating the Parental Choice Scholarship Program, though if your state has an existing school choice program, it could be administered in a different department. The intent was to name the existing agency in the state that is responsible for public school finances and private school regulation. Alternatively, legislators may choose to consider other capable departments, create a new small agency, or contract with a private nonprofit organization to oversee the program if they are concerned about the hostility the program would face from the existing state education department.

4. This model legislation allows students to use a scholarship to attend a public school outside their district as well as a private school. The authors support giving parents the widest possible array of choices so that they can choose the school that best meets their child's needs. Making sure parents can choose either a public or private school is not only the right policy but also the best legal strategy. The U.S. Supreme Court and various state courts have all cited this broad array of choices as an important part of the reason they have found school choice programs constitutional. The courts have reasoned that these scholarship programs are not an inappropriate subsidy of religious institutions because the purpose was secular (the education of children) and the parents were given many options including public schools, charter schools, private secular schools,

and private religious schools. If a state already has open enrollment or some other form of public school choice, then this legislation should be made consistent with the existing program. In fact, if a state already has a broad array of school choice options available to parents, then a state may be able to add an option for just private schools without encountering constitutional questions.

5. This model legislation bases the scholarship amount on: 1) the costs for educating the student; and 2) the dollar amount the resident school district would have received from state and local sources to serve the student.

Optimally, a voucher should equal the federal, state, and local dollars that would have been available for the child at his or her resident public school. Unfortunately, tapping federal dollars may bring some unwanted federal regulations to choice schools. Similarly, legislators should be aware that using local dollars may violate the state constitution in some places and may be politically unviable in other states. In these cases, legislators could choose to fund scholarships by drawing an amount equal to the state and local support solely from the state's coffers. This option will significantly change the fiscal effect of the legislation and will likely result in added expenditures for the state. In some states, legislators have chosen to base the scholarship amount on the level of state support normally provided to a student. This will significantly lower the amount of the scholarship and thereby limit the number of schools that are willing to accept them.

This updated model legislation recommends that students with a parental choice scholarship receive the same public investment in their education as those attending traditional public schools. The authors do not adjust the scholarship amount based upon the student's household income because states do not adjust the public investment for a student attending a traditional public school or a charter school based upon their household's income. This model legislation originally suggested adjusting the scholarship amount based upon the household income of the eligible student. Since then, only one state has adopted that model - Indiana. The Choice Scholarship Program in Indiana provides 90 percent of the state tuition support amount for students in families qualifying for Free and Reduced Price Lunch and 50 percent of the state tuition support amount for students with a family income not exceeding 150 percent of the income guidelines for Free and Reduced Price Lunch.

6. This model legislation prohibits participating schools from charging tuition and fees for the poorest students, those from households whose incomes are below the FRL standard. The model legislation allows schools to charge students from households whose income is above the FRL standard tuition and fees in addition to the scholarship amount. This will encourage participation by the greatest number of schools while making sure that poor families' options are not limited by their income. Legislators may wish to make it clear that schools can seek in-kind contributions for tuition and fees from student households above the FRL standard. However, legislators should also make sure that the amount of the scholarship plus the tuition and fees charged to students above the FRL standard does not exceed the school's costs for educating a student.

7. The legislation requires participating schools that are oversubscribed to use a random selection process for determining admissions. This random selection process will assure that students are admitted on an equal basis regardless of their educational attainment, athletic talents, or life challenges. Critics of school choice often falsely allege that schools will "cream" the best students from the list and not take the more difficult challenges. In reality, existing school choice programs require this random selection process and experience shows the students they admit face greater challenges than the average public school student in their district.

The model legislation makes two exceptions from this random selection process in order to facilitate educational objectives. Children already attending the school on a scholarship are not required to join the lottery for admittance so as not to interrupt their educational experience. Similarly, the siblings of students already attending the school are exempted so families can send all of their children to the same school. A requirement that siblings join a random selection process could produce a logistical nightmare for parents when their children are all admitted to different schools. This would force many such families to unite their children by either choosing a much less desirable school without a waiting list or by exiting the program.

Legislators may also wish to consider other preferences for admission including children who have been victims of school violence or attend a failing school as defined in the No Child Left Behind Act.

8. The bill has been drafted so that any savings in the cost of educating a student shall accrue to the state. School choice legislation drafted in this manner has the political advantage of either reducing state expenditures or making more funds available for other public schools. Legislators should know that some local school districts will claim that because the state is capturing the savings the program is “draining resources” away from public schools. This would not be the case if the savings were used to increase state aids to public school districts.
9. It is important that the Department calculate the voucher in strict accordance with the definitions in the legislation. If the Department cannot be trusted to do this objectively, a more detailed description for determining the size of the voucher should be written into the law.
10. Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color, and national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability). If you choose to include language banning discrimination in hiring on the basis of race, color, national origin, or disability, take care not to interfere with the ability of religious institutions to hire individuals who share their religious beliefs.
11. The model legislation provides schools with the tools they need to ensure that students will be safe. The schools are required to conduct criminal background checks on existing and potential employees, and then they are given the flexibility to determine from this information whether the employee might pose a risk to students. This language is valuable in two cases:
 - 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools, and this language would give schools clear authority to dismiss or not hire individuals who pose a risk to student safety; and
 - 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This language would give schools the responsibility to do background checks and the power to exclude potential risks from the school.
12. The purpose of the financial information report is to make sure that the Department can ascertain the costs of educating a student at the school and to ensure public funds are used appropriately. The legislation does not call for an independent audit because this would be unnecessarily expensive and invasive for many private schools.
13. The model legislation provides for two methods for schools to demonstrate financial viability to ensure that public funds are secure. The first method employs a market-based means of demonstrating viability. Private companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that might be owed the state. They will therefore conduct the checks necessary to protect their financial interest as well as the taxpayers’ financial interests. Surety bonds can be expensive (one to three percent of the amount covered) or invasive for some institutions, so the legislation allows schools to demonstrate by some other means that they have the financial wherewithal to pay back any amount they might owe the state. This might include things like personal guarantees, reserve accounts, or escrow accounts.
14. The authors believe that empowered parents are the best way to achieve academic accountability. Clear and consistent information about the academic performance of participating students will help empower parents and will also provide the public and policymakers with the information they need to evaluate the effectiveness of the program and participating schools. Therefore, all participating schools should be required to annually administer either the state achievement tests or nationally norm-referenced tests that demonstrate learning

gains in math and language arts. Most private schools already administer such norm-referenced tests, so this provision should not be seen as burdensome. It is important, however, to give schools the ability to choose between a state test and the nationally norm-referenced test. Many private schools would simply refuse to participate in the program if they were forced to administer the state tests, because it implies that they are no longer independent of the state. The reason many opponents to school choice promote state testing of private schools' students is, in fact, because they want to discourage school participation and quietly destroy the program.

Participating schools should provide the parents of each student with a copy of the results and should provide the results to the state or an organization chosen by the state, as described in Endnote 15, in a manner that protects the identity and privacy of individual students. The purpose of this testing requirement should be to provide each parent with a measure of their student's achievement and to allow the taxpayers to measure the achievements of the program. The number and scope of the tests should be carefully limited to ensure that there is sufficient information to demonstrate the achievements of the program without being so exhaustive or prescriptive as to end up dictating the curriculum at participating schools. The costs of the testing requirements for a private school must be included in the costs used to determine the size of the scholarships at that school. If legislators would like an extensive longitudinal study, refer to Endnote 17 and its suggested language to create such a review.

15. Like in Endnote 3, if legislators are concerned about the hostility the program would face from the existing Department of Public Instruction, they may choose to create a new small agency or contract with a private nonprofit organization to oversee the academic accountability responsibilities of the state. Allowing an organization chosen by the state to oversee this program allows for the flexibility to implement market-based models of academic accountability. In these cases, test results could be reported to a consumer organization, such as GreatSchools.net, where parents can assess participating schools' test results and compare schools to which they may send their children.
16. The purpose of administering tests is to create transparency in participating students' academic progress and to demonstrate learning gains. These learning gains can only be demonstrated when the public has access to more than one school year. When this information is made public in the first year, the media and opponents often attack school choice programs, noting that participating students are not performing as well as their public school counterparts. This effect is natural because often the students who participate in choice programs are not doing well in public schools and are academically far behind their participating school counterparts, and it will take them a few years to catch up to grade level.

It is important to note that there are multiple ways to achieve the goal of academic accountability in school choice programs. Policymakers must consider the goal of releasing the academic data in order to choose the most effective reporting process. For instance, if the goal is to see how the program is affecting participating students' learning gains, scores of participants statewide should be evaluated and released. If the goal is to evaluate participating school outputs as a tool to help parents choose the best school, scores should be released by participating school. You might also consider a sliding scale approach, where the more participating students a school enrolls, the greater its obligations for transparency and accountability.

17. Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific evaluation of the program using the testing data established in Section 4(C). It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency or a trusted research university department. We have provided model language for such an independent evaluation of the program in Section X below. The outlined research would evaluate not only whether students who participate in the program are better off but also, more importantly, whether the competition from private schools improves the performance of public schools. The outlined longitudinal study includes a comparison of students in the choice program with a similar cohort in the public schools for at least five years of their education. Unfortunately, a longitudinal study is likely to be quite expensive. Accordingly, the

legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants, and another trusted agency would have to be selected. It will be tempting for legislators to further define the details of the study, but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

18. The legislation allows schools to occasionally fail to meet an accountability standard so that an antagonistic regulator cannot shut down the program by banning schools with a modest occasional violation such as turning in a report late.

Section X. {Evaluation of the Parental Choice Scholarship Program}

(A) The Legislative Service Agency may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.

(B) The study shall assess:

(1) the level of parental satisfaction with the program;

(2) the level of participating students' satisfaction with the program;

(3) the impact of the program and the resulting competition from private schools on the resident school districts, public school students, and quality of life in a community;

(4) the impact of the program on public and private school capacity, availability and quality; and

(5) participating student's academic performance and graduation rates in comparison to students who applied for

a

scholarship under this program but did not receive one because of random selection.

(C) The researchers who conduct the study shall:

(1) apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study.

(2) protect the identity of participating schools and students by, among other things, keeping anonymous all

disaggregated data other than that for the categories of grade level, gender, family income level, race and ethnicity.

(3) provide the Legislature with a final copy of the evaluation of the program.

(D) The relevant public and participating private schools shall cooperate with the research effort by providing student assessment results and any other data necessary to complete this study.

(E) The Legislative Service Agency may accept grants to assist in funding this study.

(F) The study shall cover a period of five years. The legislature may require periodic reports from the researchers. After publishing their results, the researchers shall make their data and methodology available for public review while complying with the requirements of FERPA (20 USC Section 1232 g).

Additional Note:

The Parental Choice Scholarship Program Act

444 It is fairly common for legislators to consider including severability clauses in new legislation.
445 Legislators should make sure that if such clauses are included and exorcised, the remaining
446 legislation produces a program that is workable and achieves the original intent of the bill.

The Great Schools Tax Credit Program Act (Scholarship TaxCredits)

2 **Summary**

3 The Great Schools Tax Credit Program authorizes a tax credit for individual and
4 corporate contributions to organizations that provide educational scholarships to
5 eligible students so they can attend qualifying public or private schools of their
6 parents' choice.

7 **Model Legislation**

8 **Section 1. {The Great Schools Tax Credit Program Act }**

9 **Section 2. {Definitions}**

10 (A) "Program" means the Great Schools Tax Credit Program.

11 (B) "Eligible student" means a student who:

12 (1) is a member of a household whose total annual income the year before he or she receives an
13 educational scholarship under this program doesnot exceed an amount equal to 2 times the
14 in- come standard used to qualify for a free or reduced-price lunch under the national free or
15 reduced-price lunch program established under 42 USC Section 1751 et seq. Once a student
16 receives a scholarship under this program, the student willremain eligible regardless of
17 household income until the student graduateshigh school or reaches 21 years of age;¹

18 (2) was eligible to attend a public school in the preceding semester or is starting school in [state]
19 for the first time;²

20 (3) Resides in [state] while receiving an educational scholarship. OR

21 (4) is starting school in [state] for the first time and is a sibling of a student already enrolled in the
22 program.

23 (C) "Low-income eligible student" means a student who qualifies for a free or reduced-price lunch
24 un- der the national free or reduced-price lunch program established under 42 USC Section 1751
25 et seq.³

26 (D) "Parent" includes a guardian, custodian, or other person with authority to act on behalf of the
27 child.

28 (E) "Department" means the state Department of Revenue.

29 (F) "Qualifying school" means either a public school outside of the resident school district, or any

private school that provides education to elementary and/or secondary students and has notified the Department of its intention to participate in the program and comply with the program's requirements.⁴

(G) "Educational scholarships" means grants to students to cover all or part of the tuition and fees at either a qualifying private school or a qualifying public school, including transportation to a public school outside of a student's resident school district.

(H) "Scholarship Granting Organization" means an organization that complies with the requirements of the state's school scholarship tax credit program and provides or is approved to provide educational scholarships to students attending any qualifying schools of their parents' choice.

(I) "Test" means either the state achievement test or nationally norm-referenced test chosen by the participating school.

Section 3. {Basic Elements of the Great Schools Tax Credit Program}

(A) A taxpayer who files a state income tax return and is not a dependent of another taxpayer may claim a credit for a contribution made to a scholarship granting organization.

(B) The tax credit may be claimed by an individual taxpayer or a married couple filing jointly in an amount equal to the total contributions made to a scholarship granting organization for educational scholarships during the taxable year for which the credit is claimed up to 100 percent of the taxpayer's tax liability.⁵

(C) The tax credit may be claimed by a corporate taxpayer in an amount equal to the total contributions made to a scholarship granting organization for educational scholarships during the taxable year for which the credit is claimed up to 100 percent of the taxpayer's tax liability.⁶

(D) A corporate taxpayer, an individual taxpayer, or a married couple filing jointly may carry forward a tax credit under this program for three years.⁶

Section 4. {Responsibilities of Scholarship Granting Organizations}⁷

(A) Administrative Accountability Standards. All scholarship granting organizations shall:

- (1) notify the Department of their intent to provide educational scholarships to students attending qualifying schools;

- (2) demonstrate to the Department that they have been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code;
- (3) distribute periodic scholarship payments as checks made out to a student's parent or guardian and mailed to the qualifying school where the student is enrolled. The parent or guardian must endorse the check before it can be deposited;
- (4) provide a Department-approved receipt to taxpayers for contributions made to the organization;
- (5) ensure that at least 90 percent of their revenue from donations is spent on educational scholarships, and that all revenue from interest or investments is spent on educational scholarships;
- (6) spend each year a portion of their expenditures on scholarships for low-income eligible students equal to or greater than the percentage of low-income eligible students in the county where the scholarship granting organization expends the majority of its scholarships;⁸
- (7) ensure that at least X percent of first-time recipients of educational scholarships were not continuously enrolled in a private school during the previous year;⁹
- (8) not grant scholarships based upon a student's race, color, creed or national origin and not grant multiyear scholarships to participating students in one approval process;
- (9) carry forward no more than 25 percent of their revenue from donations from the state fiscal year in which they were received to the following state fiscal year;
- (10) cooperate with the Department to conduct criminal background checks on all of their employees and board members and exclude from employment or governance any individual(s) that might reasonably pose a risk to the appropriate use of contributed funds;¹⁰
- (11) provide scholarships for eligible students to attend any participating school of the parent's choosing, and not limit scholarships for attendance at only a subset of participating schools.
- (12) ensure that scholarships are portable during the school year and can be used at any qualifying school that accepts the eligible student according to a parent's wishes. If a student moves to a new qualifying school during a school year, the scholarship amount may be prorated.

- 87 (13) publicly report to the Department by June 1 of each year the following information
88 prepared by a certified public accountant regarding their grants in the previous calendar
89 year:
- 90 (a) the name and address of the student support organization;
 - 91 (b) the total number and total dollar amount of contributions received during the previous
92 calendar year; and
 - 93 (c) the total number and total dollar amount of educational scholarships awarded during
94 the previous calendar year, the total number and total dollar amount of educational
95 scholarships awarded during the previous year to students qualifying for the federal free
96 and reduced-price lunch program,¹¹ and the percentage of first-time recipients of
97 educational scholarships who were enrolled in a public school during the previous year.
- 98 (14) ensure scholarships are not provided for students to attend a school with paid staff or
99 board members, or relatives thereof, in common with the scholarship granting organization.

100 (B) Financial Accountability Standards.¹²

- 101 (1) All scholarship granting organizations shall demonstrate their financial accountability.:
- 102 (a) If a scholarship granting organization provides less than \$250,000 in scholarships to
103 eligible students through this program, it shall:
 - 104 (i) annually submitting to the Department a financial information report for the
105 organization that complies with uniform financial accounting standards established by
106 the Department and conducted by a certified public accountant; and
 - 107 (ii) having the auditor certify that the report is free of material misstatements.
 - 108 (b) If a scholarship granting organization provides equal to or more than \$250,000 in
109 scholarships to eligible students through this program, it shall:
 - 110 (i) provide to the Department of Revenue a report on the results of an annual financial
111 audit of its accounts and records conducted by an independent certified public
112 accountant in accordance with auditing standards generally accepted in the United
113 States, government auditing standards, and rules promulgated by the Department of
114 Revenue. The audit report must include a report on financial statements presented in
115 accordance with generally accepted accounting principles. Audit reports must be

provided to the Department of Revenue within 180 days after completion of the scholarship granting organization's fiscal year. The Department of Revenue shall review all audit reports submitted pursuant to this paragraph. The Department of Revenue shall request any significant items that were omitted in violation of a rule adopted by the Department of Revenue. The items must be provided within 45 days after the date of the request.

(2) All participating private schools shall demonstrate financial viability, if they are to receive donations of \$50,000 or more during the school year, by:

(a) filing with the scholarship granting organization prior to the start of the school year a surety bond payable to the scholarship granting organization in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(b) filing with the scholarship granting organization prior to the start of the school year financial information that demonstrates the financial viability of the participating school.

Section 5. {Program Oversight of Participating Schools}

(A) Each scholarship granting organization shall collect written verification from participating, private schools that accept its scholarship students that those schools:

(1) comply with all health and safety laws or codes that apply to private schools;

(2) hold a valid occupancy permit if required by their municipality;

(3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981,¹³ and

(4) conduct criminal background checks on employees and then:

(a) exclude from employment any people not permitted by state law to work in a private school; and

(b) exclude from employment any people that might reasonably pose a threat to the safety of students.¹⁴

(B) Academic Accountability Standards. There must be sufficient information about the academic impact scholarship tax credits have on participating students in order to allow parents and taxpayers to measure the achievements of the program, and therefore:

- (1) each scholarship granting organization shall ensure that participating schools that accept its scholarship shall:¹⁵
- (a) annually administer either the state achievement tests or nationally norm- referenced tests that measure learning gains in math and language arts, and provide for value-added assessment, to all participating students in grades that require testing under the state's accountability testing laws for public schools;
 - (b) allow costs of the testing requirements to be covered by the scholarships distributed by the scholarship granting organizations;
 - (c) provide the parents of each student who was tested with a copy of the results of the tests on an annual basis, beginning with the first year of testing;
 - (d) provide the test results to the Department or an organization chosen by the state¹⁶ on an annual basis, beginning with the first year of testing;
 - (e) report student information that would allow state to aggregate data by grade level, gender, family income level, and race;
 - (f) provide rates of high school graduation, college attendance and college graduation for participating students to the Department or an organization chosen by the state in a manner consistent with nationally recognized standards; and
 - (g) provide to the Department or an organization chosen by the state the results from an annual parental satisfaction survey, including information about the number of years that the parent's child has participated in the scholarship program. The annual satisfaction survey shall ask parents of scholarship students to express:
 - (i) Their satisfaction with their child's academic achievement, including academic achievement at the school their child attended through the scholarship program versus academic achievement at the school previously attended;
 - (ii) Their satisfaction with school safety at the schools their child attends through the scholarship program versus safety at the schools previously attended;
 - (iii) Whether their child would have been able to attend their school of choice without the scholarship; and
 - (iv) Their opinions on other topics, items, or issues that the department finds would elicit

information about the effectiveness of the scholarship program.¹⁷

(2) the Department or an organization chosen by the state shall:

(a) ensure compliance with all student privacy laws;

(b) collect all test results;

(c) provide the test results and associated learning gains to the public via a state Web site

after the third year of test and test-related data collection.¹⁸ The findings shall be

aggregated by the students' grade level, gender, family income level, number of years of

participation in the scholarship program, and race;¹⁹ and

(d) provide graduation rates to the public via a state Web site after the third year of test and

test-related data collection; and

Section 6. {Responsibilities of the Department of Revenue}

(A) The Department shall adopt rules and procedures consistent with this act as necessary to

implement the program.

(B) The Department shall provide a standardized format for a receipt to be issued by a scholarship

granting organization to a taxpayer to indicate the value of a contribution received. The

Department shall require a taxpayer to provide a copy of this receipt when claiming the Great

Schools Tax Credit.

(C) The Department shall provide a standardized format for a scholarship granting organization to

report the information in Section 4(A)(10) above.

(D) The Department shall have the authority to conduct either a financial review or audit of a

scholarship granting organization if possessing evidence of fraud.

(E) The Department may bar a scholarship granting organization from participating in the program if

the Department establishes that the scholarship granting organization has intentionally and

substantially failed to comply with the requirements in Section 4 or Section 5.

(F) If the Department decides to bar a scholarship granting organization from the program, it shall

notify affected scholarship students and their parents of this decision as quickly as possible.

(G) The Department shall allow a taxpayer to divert a prorated amount of state income tax

withholdings to a scholarship granting organization of the taxpayer's choice up to the maximum

credit allowed by law, including carry-over credits. The Department shall have the authority to develop a procedure to facilitate this process.²⁰

Section 7. {Responsibilities of Qualifying Schools}

(A) All qualified schools shall be required to operate in [state].

(B) All qualifying schools shall comply with all state laws that apply to private schools regarding criminal background checks for employees and exclude from employment any people not permitted by state law to work in a private school.

Section 8. {Effective Date} The Great Schools Tax Credit may be first claimed in the next calendar year.

Footnotes

These notes are intended to provide guidance to legislators on some of the key policy questions they will encounter in drafting and debating school choice tax credit legislation. In general, legislators and the public seek greater state regulation of programs directly funded by the government than of tax credit programs under the belief that tax credits are private funds kept by taxpayers rather than public funds expended by governments. However, insufficient accountability regulation can produce situations that undermine public and legislative support for the program. In recognition of this potential, we have chosen to recommend the establishment and state regulation of scholarship granting organizations rather than heavy government regulation of private contributions and private schools.

1. The definition for an eligible student is limited to those children in a household whose annual income does not exceed an amount equal to 2 times the income standard used to qualify for the federal free and reduced-price lunch program (FRL). The authors chose this standard for several reasons: 1) the FRL program is familiar to both schools and many parents; 2) the verification procedures are simple and familiar to school administrators; 3) the income guidelines are used for a number of existing state and federal programs; 4) the federal government annually adjusts the income guidelines; and 5) the income guidelines are adjusted for family size.

The authors chose to use a multiple of this familiar income standard to recognize that many low- and middle-income families cannot afford the choice of a private school. Experience suggests that most parents' ability to choose a private school is quite limited until the household income approaches \$75,000 for a family of four. We have chosen a multiple of 2 times the FRL standard to reflect this reality. Legislators may wish to use different multiples of this standard but should keep in mind the financial burden many middle-class families face in paying for private schools.

2. The definition for an eligible student in this model legislation includes students presently enrolled in a private school. Drafted this way, the tax credit will necessarily reward many families who are already financing their child's education at a non-resident public school or a private school. For this reason some states with a scholarship tax credit program have chosen to place a cap on the total dollar amount eligible for the tax credit. If legislators decide to include a statewide tax credit cap in the legislation, the authors strongly recommend that language should be added to automatically allow the cap to increase by twenty-five (25) percent in any year after ninety (90) percent of

the cap was reached in the previous year. Additionally, if legislators decide include a statewide tax credit cap, we recommend creating priority status for siblings and children from families eligible for the free and reduced price lunch program.

Alternatively, legislators wishing to draft a bill with a more modest fiscal impact may want to limit eligibility to students who attended a public school in the last year or are starting school in their state for the first time. In this case, there may actually be a savings for state taxpayers since a scholarship covering private school costs in many cases will be less than the cost of state support provided to students attending a public school.

3. This model legislation creates an additional class of eligible students who are from low-income families. Scholarship granting organizations are required to make sure that an appropriate proportion of their scholarship assistance reaches the poorest families in the state (see Section 4 (A)(6)). This ensures that assistance reaches the families who are least able to afford the school of their choice.
4. This model legislation allows students to use a scholarship to attend a public school outside their district as well as a private school. The authors support giving parents the widest possible array of choices so that they can choose the school that best meets their child's needs. Making sure parents can choose either a public or private school is not only the right policy but also the best legal strategy. The U.S. Supreme Court and various state courts have all cited this broad array of choices as an important part of the reason they have found school choice programs constitutional. The courts have reasoned that these scholarship programs are not an inappropriate subsidy of religious institutions because the purpose was secular (the education of children) and the parents were given many options including public schools, charter schools, private secular schools, and private religious schools. If a state already has open enrollment or some other form of public school choice, then this legislation should be made consistent with the existing program. In fact, if a state already has a broad array of school choice options available to parents, then a state may be able to add an option for just private schools without encountering constitutional questions.
5. The bill allows an individual, married couple, or corporation to claim a tax credit up to 100 percent of their tax liability. Presently, Arizona, Florida, Iowa, Kansas, Louisiana, and Virginia allow taxpayers to claim a tax credit for donations to scholarship organizations equal to 100 percent of their tax liability. Georgia limits the tax credit to 75 percent of a taxpayer's liability while South Carolina chose 60 percent and Indiana and Alabama chose 50 percent. While most states have chosen to implement a cap on the dollar amount of the tax credit available to each taxpayer, this recommended methodology is more equitable since it adjusts the cap to treat all taxpayers proportionately the same.

Depending on the state, additional corporate revenue streams from which a credit may be claimed for a contribution made to a scholarship granting organization may be listed in legislation. For example, states may have the following tax revenue streams from which to draw: insurance premium tax, alcohol beverage excise tax, direct pay sales and use tax, and oil and gas severance tax liability.
6. The bill allows a taxpayer to carry forward any unused tax credits for up to three years. Individual incomes and corporate profits are often quite volatile. As a result, taxpayers may not have a liability against which to claim a credit in certain years. Yet the need for scholarship assistance by a student is likely to be relatively constant. Therefore, it is important to allow taxpayers to carry forward unused tax credits into other tax years to ensure that taxpayers have an incentive to continue to contribute to scholarship granting organizations even in years in which the taxpayer has no tax liability. The number does not have to be three years, but should match the existing state standard for tax deduction and carry forwards.
7. The model legislation requires the establishment of scholarship granting organizations to protect scholarship recipients, frustrate attempts at fraud, and measure the impact of the program without heavy government regulation of private contributions and private schools. We prefer rigorous self-regulation by taxpayers and independent regulation of private school participation by SGO's in lieu of intrusive government regulation.

- 288
- 289 8. The goal of this legislation is to provide every parent with the opportunity to send their child to the school that best
- 290 meets their child's needs regardless of their family's income. The need for scholarship assistance is obviously
- 291 greatest among low- income families. This requirement ensures that a proportionate amount of the scholarship
- 292 assistance is given to the families financially least able to send their child to the school of their choice.
- 293
- 294 9. The goal of the program is to expand the number of families who can afford to send their children to the school of
- 295 their choice. Therefore, legislators may wish to require that a certain percentage of the scholarship assistance go to
- 296 children who were not already in private schools. This will also hold down the costs of the program and increase the
- 297 efficiency of the financial incentive for expanding choice. This requirement will be particularly important in states
- 298 that choose to place a total dollar cap on the tax credit program since a limited amount of tax credits could be
- 299 claimed for scholarship assistance to students previously attending private schools.
- 300
- 301 10. The purpose of the criminal background checks is to protect both the contributors and recipients of scholarship
- 302 assistance from potential fraud or mismanagement of the funds. The legislation gives the scholarship granting
- 303 organizations the responsibility to do background checks, which gives them the power to exclude potential risks
- 304 from the organization and alleviates liability issues for their employment decisions.
- 305
- 306 11. Collecting information regarding how many scholarship students qualify for free and reduced-price lunch will give
- 307 policymakers a sense of the students that are being served by scholarship tax credit programs. These income
- 308 guidelines are broadly known and already used in private schools.
- 309
- 310 12. The purpose of the financial information report and the demonstration of financial viability is to protect both the
- 311 contributors and recipients of scholarship assistance from potential fraud or mismanagement of the funds. The
- 312 model legislation pro- vides for two methods for participating schools to demonstrate financial viability to ensure
- 313 that scholarship funds are secure. The first method employs a market-based means of demonstrating viability.
- 314 Companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that
- 315 might be owed to the scholarship granting organization. They will therefore conduct the checks necessary to protect
- 316 their financial interest as well as the financial interests of the contributors and recipients. Surety bonds can be
- 317 expensive or invasive for some institutions so the legislation allows these schools to demonstrate by some other
- 318 means that they have the financial wherewithal to fulfill their scholarship obligations. This might include things like
- 319 personal guarantees, reserve accounts, or escrow accounts. The legislation does not call for an independent audit
- 320 because this would be unnecessarily expensive and invasive for these private organizations.
- 321 13. Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color, and
- 322 national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination
- 323 requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability).
- 324
- 325 14. This language is valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring
- 326 even for sensitive positions in schools, and this language would give schools clear authority to dismiss or not hire
- 327 individuals who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their
- 328 mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a
- 329 threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a
- 330 clean record. This language would give schools the responsibility to do background checks, the power to exclude
- 331 potential risks from the school, and the liability for their employment decisions.
- 332
- 333 15. The authors believe that empowered parents are the best way to achieve academic accountability. Clear and
- 334 consistent information about the academic performance of participating students will help empower parents and
- 335 will also provide the public and policymakers with the information they need to evaluate the effectiveness of the
- 336 program and participating schools. Therefore, all participating schools should be required to annually administer
- 337 either the state achievement tests or nationally norm-referenced tests that demonstrate learning gains in math and
- 338 language arts. Most private schools already ad- minister such norm-referenced tests so this provision should not be
- 339 seen as burdensome. It is important, however, to give schools the ability to choose between a state test and the

340 nationally norm-referenced test. Many private schools would simply refuse to participate in the program if they
341 were forced to administer the state tests, because it implies that they are no longer independent of the state. The
342 reason many opponents to school choice promote state testing of private schools is, in fact, because they want to
343 discourage school participation and quietly destroy the program.

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346 results to the state or an organization chosen by the state, as described in Endnote 16, in a manner that protects the
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348 with a measure of their student's progress and to allow the taxpayers to measure the achievements of the program.
349 The number and scope of the tests should be carefully limited to ensure that there is sufficient information to
350 demonstrate the achievements of the program without being so exhaustive or prescriptive as to end up dictating
351 the curriculum at participating schools. If legislators would like an extensive longitudinal study, refer to Endnote 18
352 and its suggested language to create such a review.

- 353
354 16. If legislators are concerned about the hostility the program would face from the existing state revenue department,
355 they may choose to create a new small agency or contract with a private nonprofit organization to oversee the
356 academic accountability responsibilities of the state. Allowing an organization chosen by the state to oversee this
357 program allows for the flexibility to implement market-based models of academic accountability. In these cases,
358 test results could be reported to a consumer organization, such as GreatSchools.net, where parents can assess
359 participating schools' test results and compare schools to which they may send their children.
- 360
361 17. If legislators are concerned that parents of participating students may not feel comfortable honestly answering a
362 survey administered by a SGO through which their child receives a scholarship, they can require that the
363 Department or an organization chosen by the state administer the parental satisfaction survey instead.
- 364
365 18. The purpose of administering tests is to create transparency in participating students' academic progress and to
366 demonstrate learning gains. These learning gains can only be demonstrated when the public has access to more
367 than one school year. When this information is made public in the first year, the media and opponents often attack
368 school choice programs, noting that participating students are not performing as well as their public school
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373 It is important to note that there are multiple ways to achieve the goal of academic accountability in school choice
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375 reporting process. For instance, if the goal is to see how the program is affecting participating students' learning
376 gains, scores of participants statewide should be evaluated and released. If the goal is to evaluate participating
377 school outputs as a tool to help parents choose the best school, scores should be released by the participating
378 school. You might also consider a sliding scale approach, where the more participating students a school enrolls, the
379 greater its obligations for transparency and accountability.

- 380
381 19. Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific
382 evaluation of the program using the testing data established in Section 5(B). It is crucial that the legislature give the
383 oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency or a
384 trusted research university department. We have provided model language for such an independent evaluation of
385 the program in Section X below. The outlined research would evaluate not only whether students who participate
386 in the program are better off but also, more importantly, whether the competition from private schools improves
387 the performance of public schools. The outlined longitudinal study includes a comparison of students in the choice
388 program with a similar cohort in the public schools for at least five years of their education. Unfortunately, a
389 longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative
390 service agency) to accept private grants to completely fund such a study. In some states, the legislature is not
391 allowed to accept such grants, and another trusted agency would have to be selected. It will be tempting for

legislators to further define the details of the study, but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

20. The legislation allows the Department to establish a mechanism that facilitates regular contributions from a taxpayer's income tax withholdings to a scholarship granting organization in anticipation of the taxpayer claiming a tax credit. This would likely encourage greater contributions to scholarship support organizations.

Section X. {Evaluation of the Great Schools Tax Credit Program}

(A) The Legislative Service Agency may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.

(B) The study shall assess:

- (1) the level of participating students' satisfaction with the program;*
- (2) the level of parental satisfaction with the program;*
- (3) the fiscal impact to the state and resident school districts of the program;*
- (4) the resulting competition from private schools on the resident school districts, public school students, and quality of life in a community;*
- (5) the impact of the program on public and private school capacity, availability and quality; and*
- (6) participating students' academic performance and graduation rates in comparison to students who applied for a scholarship under this program but did not receive one because of random selection.*

(C) The researchers who conduct the study shall:

- (1) apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study;*
- (2) protect the identity of participating schools and students by, among other things, keeping anonymous all disaggregated data other than that for the categories of grade level, gender and race and ethnicity; and*
- (3) provide the legislature with a final copy of the evaluation of the program.*

(D) The relevant public and private participating schools shall cooperate with the research effort by providing student assessment results and any other data necessary to complete this study.

(E) The Legislative Service Agency may accept grants to assist in funding this study.

(F) The study shall cover a period of 13 years. The legislature may require periodic reports from the researchers. After publishing their results, the researchers shall make their data and methodology available for public review while complying with the requirements of the Family Educational Rights and Privacy Act (20 USC Section 1232 g).

Additional Note:

It is fairly common for legislators to consider including severability clauses in new legislation. Legislators should make sure that if such clauses are included and exercised, the remaining legislation produces a program that is workable and achieves the original intent of the bill.

The Education Savings Account Act

Summary

The Education Savings Account Act allows parents to use the funds that would have been allocated to their child at their resident school district for an education program of the parents' choosing.

Model Legislation

Section 1. { The Education Savings Account Act } Section

2. {Definitions}

(A) "Program" means The Education Savings Account program created in this subchapter.

(B) "Eligible student" means either:

1) any elementary or secondary student who was eligible to attend a public school in [state] in the preceding semester or is starting school in [state] for the first time.^[i] A first-time enrollee must be ~~and is~~ a member of a household whose total annual income does not exceed an amount equal to 2 times ~~2.5 times~~ the income standard used to qualify for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq. Once a student receives a scholarship under this program, the student will remain eligible regardless of household income until the student graduates high school or reaches 21 years.

OR

2) is starting school in [state] for the first time and is a sibling of a student already enrolled in the program.

(C) "Parent" means a resident of this state who is a parent, guardian, custodian, or other person with the authority to act on behalf of the child.

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(D) "Department" means the state Department of Public Instruction or an organization chosen by the state.^[iii]

(E) "Resident school district" means the public school district in which the student resides.

(F) "Participating school" means any private school that provides education to elementary and/or secondary students and has notified the Department of its intention to participate in the program and comply with the program's requirements.^[iii]

(G) "Private tutoring" means tutoring services provided by tutors accredited by a regional or national accrediting organization.

(H) "Eligible postsecondary institution" means a community college, an accredited university or an accredited private postsecondary institution.

Section 3. {Basic Elements of The Education Savings Account Act}

(A) Any parent of an eligible student shall qualify for the state to make a grant to their child's education savings account if the parents sign an agreement promising:

(1) To provide an education for the eligible student in at least the subjects of reading, grammar, mathematics, social studies, and science;

(2) Not to enroll their eligible student in a district or charter school.

(B) The state shall deposit into an Education Savings Account the dollar amount the resident school district would have received to serve and educate the eligible student from state and local sources had the student enrolled there. some or all of the state aid that would otherwise have been provided to the resident school district for the eligible student had they enrolled in the resident school district A participating student shall be counted in the enrollment figures for his or her resident school district. The funds needed for a scholarship shall be subtracted from the state school aid payable to the student's resident school district.^{iv};

(C) Parents participating in the Education Savings Account program shall agree to use the funds deposited in their eligible student's accounts for the following qualifying expenses to educate the eligible student:

(1) Tuition and fees at a participating school.

- (2) Textbooks required by a participating school.
- (3) Payment to a licensed or accredited tutor.
- (4) Payment for purchase of curriculum.
- (5) Tuition or fees for a non-public online learning program.
- (6) Fees for national norm-referenced examinations, Advanced Placement examinations or similar courses, and any examinations related to college or university admission.
- (7) Contributions of up to \$2000 annually to the eligible student's qualified tuition program established pursuant to 26 USC Section 530 or 11 USC Section 529.
- (8) Educational services for pupils with disabilities from a licensed or accredited practitioner or provider.
- (9) Tuition and fees at an eligible postsecondary institution.
- (10) Textbooks required for college or university courses.
- (11) Fees for account management by private financial management firms approved by the Department.

(D) ~~Grant amounts to Education Savings Accounts shall be calculated according to the following schedule:~~^(iv)

- (1) ~~For students from households qualifying for the federal free or reduced-price lunch program, the amount granted to the student's Education Savings Account shall be equal to the dollar amount the resident school district would have received to serve and educate the eligible student from state sources had the student enrolled there.~~
- (2) ~~For students from households with an annual income greater than the amount required to qualify for the free or reduced-price lunch program but less than 1.5 times that amount, the amount granted to the student's Education Savings Account shall be equal to seventy-five percent of the dollar amount the resident~~

~~school district would have received to serve and educate the eligible student from state sources had the student enrolled there.~~

~~(3) For students from households with an annual income of greater than 1.5 times the amount required to qualify for the free or reduced-price lunch program but less than 2.0 times that amount, the amount granted to the student's Education Savings Account shall be equal to fifty percent of the dollar~~

~~amount the resident school district would have received to serve and educate the eligible student from state sources had the student enrolled there.~~

~~(4) For students from households with an annual income of greater than 2.0 times the amount required to qualify for the free or reduced-price lunch program but less than 2.5 times that amount, the amount granted to the student's Education Savings Account shall be equal to twenty-five percent of the dollar amount the resident school district would have received to serve and educate the eligible student from state sources had the student enrolled there.~~

(DE) A participating school, private tutor, eligible postsecondary institution or other educational provider may not refund, rebate, or share a student's grant with a parent or the student in any manner. The funds in an Education Saving Account may only be used for educational purposes.

(EF) Parents will be allowed to make payments for the costs of educational programs and services not covered by the funds in their accounts.

(FG) A participating student shall be counted in the enrollment figures for his or her resident school district for the purposes of calculating state aid to the resident school district. The funds needed for a grant to an Education Savings Account shall be subtracted from the state school aid payable to the student's resident school district.

Section 4. {Administration of the Education Savings Account Act.}

(A) The Department^(w) will qualify private financial management firms to manage Education Savings Accounts.

(B) The Department will have the authority to conduct or contract for the auditing of accounts, and will at a minimum conduct random audits of accounts on an annual basis. The Department will have the authority to make any parent of an eligible student ineligible for the Education Savings Account program in the event of substantial misuse of the funds in the account.

(C) The Department will have the authority to refer cases of substantial misuse of funds to law enforcement agencies for investigation if evidence of fraudulent use of an account is obtained.

(D) The Department shall provide parents of participating students with a written explanation of the allowable uses of education savings accounts, the responsibilities of parents and the duties of the Department.

(E) The Department may deduct an amount from the grants to education savings accounts to cover the costs of overseeing the accounts and administering the program up to a limit of 3 percent.

(F) The Department shall establish reasonable fees for private financial management firms participating in the program based upon market rates.

(G) The Department shall make payments to eligible students' Education Savings Accounts on a quarterly basis.

Section 5. {Accountability Standards for Participating Schools.} -

(A) Administrative Accountability Standards. To ensure that students are treated fairly and kept safe, all participating private schools shall:

(1) Comply with all health and safety laws or codes that apply to private schools;

(2) Hold a valid occupancy permit if required by their municipality;

(3) Certify that they comply with the nondiscrimination policies set forth in 42 USC 1981,^[vii] and

(4) Conduct criminal background checks on employees. The participating school then shall:

(a) Exclude from employment any people not permitted by state law to work in a private school; and

(b) Exclude from employment any people that might reasonably pose a threat to the safety of students.^[viii]

(B) Financial Accountability Standards. To ensure that funds are spent appropriately, all participating schools shall:

- (1) Provide parents with a receipt for all qualifying expenses at the school.
- (2) Demonstrate their financial viability by showing they can repay any funds that might be provided from Education Savings Accounts, if they are to receive \$50,000 or more during the school year, by:
 - (a) Filing with the Department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of the funds from Education Savings Accounts expected to be paid during the school year from students admitted at the participating school; or
 - (b) Filing with the Department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the funds from Education Savings Accounts expected to be paid during the school year to students admitted to the participating school.^(viii)

(C) Academic Accountability Standards. In order to allow parents and taxpayers to measure the achievements of the program:

- (1) Parents shall ensure that:^(ix)
 - (a) Each year their eligible student takes either the state achievement tests or nationally norm-referenced tests that measure learning gains in math and language arts, and provide for value-added assessment;
 - (b) The results of these tests are provided to the state or an organization chosen by the state on an annual basis,^(x) beginning with the first year of testing;
 - (c) The student information is reported in a way that would allow the state to aggregate data by grade level, gender, family income level, and race; and
 - (d) The state or an organization chosen by the state will be informed of the eligible student's graduation from high school.

(2) The state or an organization chosen by the state shall:

(a) Ensure compliance with all student privacy laws;

(b) Collect all test results;

(c) Provide the test results, associated learning gains and graduation rates to the public via a state Web site after the third year of test and graduation- related data collection.^[xii] The findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the scholarship program, and race;^[xiii]

(d) Provide rates for high school graduation, college attendance and college graduation for participating students rates to the public via a state Web site after the third year of test and test-related data collection;and

(e) Administer an annual parental satisfaction survey that shall ask parents of students receiving education savings accounts to express:

(1) Their satisfaction with the program; and

(2) Their opinions on other topics, items, or issues that the state finds would elicit information about the effectiveness of education savings accounts program and the number of years their child has participated in the program.

(D) Participating School Autonomy. A participating private school is autonomous and not an agent of the state or federal government and therefore:

(1) The Department or any other state agency may not in any way regulate the educational program of a participating private school or education provider that accepts funds from an education savings account;

(2) The creation of The Education Savings Account Program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools or education providers beyond those necessary to enforce the requirements of the program; and

(3) Participating private schools and education providers shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

Section 6. {Responsibilities of the Department of Public Instruction}

(A) The Department shall ensure that eligible students and their parents are informed annually of which schools will be participating in the Education Savings Account Program. Special attention shall be paid to ensuring that lower-income families are made aware of the program and their options.

(B) The Department shall create a standard form that parents of eligible students can submit to establish their student's eligibility for the Education Savings Account Program. The Department shall ensure that the application is readily available to interested families through various sources, including the Internet.

(C) The Department may bar a participating school or education provider from the Education Savings Account Program if the Department establishes that the participating school or education provider has:

(1) Routinely failed to comply with the accountability standards established in Section 5;^(xiii) or

(2) Failed to provide the eligible student with the educational services funded by the Education Savings Account.

(D) If the Department decides to bar a participating school or education provider from the program, it shall notify eligible students and their parents of this decision as quickly as possible.

(E) The Department shall adopt rules and procedures as necessary for the administration of the Education Savings Account Program.

Section 7. {Responsibilities of Resident School Districts.} -

(A) The resident school district shall provide a participating school or education provider that has admitted an eligible student under this program with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC Section 1232 g).

(B) The resident school district shall provide transportation for an eligible student to and from the participating school or education provider under the same conditions as the resident school district is required to provide transportation for other resident students to private schools as per current law. The resident school district will qualify for state transportation aid for each student so transported.

Section 8. {Effective Date.} The Education Savings Account Program will be in effect beginning with the fall semester of the next school year.

Footnotes

[i] The definition for an eligible student in this model legislation includes all children of school age, as long as they meet the initial family income test. The authors believe that all children should receive public support for their education regardless of whether they attend a public or private school, whether they are just starting school, or have already dropped out. Please note that this inclusive definition will significantly increase the number of students in your state receiving public support for their education and thereby either increase the costs to taxpayers or reduce the level of assistance available to support each student.

Legislators wishing to draft a bill that saves money will want to limit eligibility largely to students who attended a public school in the semester prior to first receiving a grant to their Education Savings Account. Because many of the grants to Education Savings Accounts will be less than what the state would have spent on the student's behalf at their public school of residence, the state will achieve a savings that would make it possible to extend these accounts to additional students including children who are attending school in the state for the first time (such as kindergartners and new residents) or existing private school students in the "school entry grades" of kindergarten and ninth grade. The draft bill assumes there will be no cap on enrollment or funding. If either type of cap were to be applied, we recommend creating priority status for siblings and children from families eligible for the free and reduced price lunch program.

[ii] This bill designates the Department of Public Instruction as the agency regulating the Education Savings Account Act. The intent was to name the existing agency in the state that is responsible for public school finances and private school regulation. Alternatively, legislators may choose to consider other capable departments, create a new small agency, or contract with a private nonprofit organization to oversee the program if they are concerned about the hostility the program would face from the existing state education department.

[iii] This model legislation allows students to use the funds in their Education Savings Account to attend a private school. The authors support giving parents the widest possible array of choices so that they can choose the education that best meets their child's needs. In states without open enrollment programs (public school choice), legislators may also want to include public schools outside of the student's resident school district in the definition of participating school. This would give students the ability to use the funds

in their Education Savings Account to pay for nonresident tuition at a public school outside their district of residence.

~~[iv] This particular set of proportions represent a framework for one approach to means-testing the scholarship amount. Legislators should develop a formula that makes sense for their state.~~

~~[v] Like in Footnote ii, if legislators are concerned about the hostility the program would face from the existing Department of Public Instruction, they may choose to consider other capable departments, create a new small agency or contract with a private nonprofit organization to administer the program.~~

[vi] Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color and national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability). If you choose to include language banning discrimination in hiring on the basis of race, color, national origin, or disability, take care not to interfere with the ability of religious institutions to hire individuals who share their religious beliefs.

[vii] The model legislation provides schools with the tools they need to ensure that students will be safe. The schools are required to conduct criminal background checks on existing and potential employees, and then they are given the flexibility to determine from this information whether the employee might pose a risk to students. This language is valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools, and this language would give schools clear authority to dismiss or not hire individual who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This language would give schools the responsibility to do background checks and the power to exclude potential risks from the school.

[viii] The model legislation provides two methods for schools to demonstrate financial viability to ensure that funds from Education Savings Accounts are secure. The first method employs a market-based means of demonstrating viability. Private companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that might be owed the parents. They will therefore conduct the checks necessary to protect their financial interest as well as the interests of the parents and the taxpayers. Surety bonds can be expensive (one to three percent of the amount covered) or invasive for some institutions, so the legislation allows schools to demonstrate by some other means that they have the financial wherewithal to pay back any amount they might owe the parents. This might include things like personal guarantees, reserve accounts, or escrow accounts.

[ix] The authors believe that empowered parents are the best way to achieve academic accountability. Clear and consistent information about the academic performance of participating students will help empower parents and will also provide the public and policymakers with the information they need to evaluate the effectiveness of the program. Therefore, all participating students should be required to annually take either the state achievement tests or nationally norm-referenced tests that demonstrate learning gains in math and language arts. Most private schools already administer such norm-referenced tests so this provision should not be seen as burdensome.

[x] Like in Footnote ii, if legislators are concerned about the hostility the program would face from the existing Department of Public Instruction, they may choose to create a new small agency or contract with a private nonprofit organization to oversee the academic accountability responsibilities of the state.

[xi] The purpose of administering the tests is to create transparency in participating students' academic progress and to demonstrate learning gains. These learning gains can only be demonstrated when the public has access to more than one school year. When this information is made public in the first year, the media and opponents often attack school choice programs, noting that participating students are not performing as well as their public school counterparts. This effect is natural because often the students who participate in choice programs are not doing well in their existing public schools and are academically far behind their participating school counterparts, and it will take them a few years to catch up to grade level.

[xii] Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific evaluation of the program using the testing data established in Section 5(C). It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency or a trusted research university department. We have provided model language for such an independent evaluation of the program in Section X below. The outlined research would evaluate whether students who participate in the program are better off than a similar cohort in the public schools for at least five years of their education. Unfortunately, a longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants, and another trusted agency would have to be selected. It will be tempting for legislators to further define the details of the study, but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

[xiii] The legislation allows schools to occasionally fail to meet an accountability standard so that an antagonistic regulator cannot shut down the program by banning schools with a modest occasional violation such as turning in a report late.

Section X: {Evaluation of the Parental Choice Scholarship Program}

(A) The Legislative Service Agency may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.

(B) The study shall assess:

- (1) the level of participating students' satisfaction with the program;*
- (2) the level of parental satisfaction with the program;*
- (3) the fiscal impact to the state and resident school districts of the program;*
- (4) the impact of the program on public and private school capacity, availability and quality; and*
- (5) participating students' academic performance and graduation rates in comparison to students who applied for a scholarship under this program but did not receive one because of random selection.*

(C) The researchers who conduct the study shall:

- (1) apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study;*
- (2) protect the identity of participating schools and students by, among other things, keeping anonymous all disaggregated data other than that for the categories of grade level, gender and race and ethnicity; and*
- (3) provide the legislature with a final copy of the evaluation of the program.*

(D) The relevant public schools and the parents of participating students shall cooperate with the research effort by providing student assessment results and any other data necessary to complete this study.

(E) The Legislative Service Agency may accept grants to assist in funding this study.

(F) The study shall cover a period of at least five years. The legislature may require periodic reports from the researchers. After publishing their results, the researchers shall make their data and methodology available for public review, while complying with the requirements of the Family Educational Rights and Privacy Act (20 USC Section 1232 g).

Additional Note:

It is fairly common for legislators to consider including severability clauses in new legislation. Legislators should make sure that if such clauses are included and exercised,

the remaining legislation produces a program that is workable and achieves the original intent of the bill.

^{iv} This updated model legislation recommends that students with an ESA receive the same public investment in their education as those attending traditional public schools. The authors do not adjust the amount granted to an ESA student based upon the household's income because states do not adjust the public investment for a student attending a traditional public school or a charter school based upon their household income. This model bill originally suggested making eligibility universal then adjusting the amount granted to an ESA based upon the household income of the eligible student. Since then, only one state has adopted that model. Nevada, the first state to make all students eligible for an ESA, also chose to adjust the amount granted based upon the student's situation. In Nevada, special needs students and students from households that qualify for Free and Reduced Price Lunch will receive 100 percent of the state per pupil funding. All other students will receive 90 percent of the state per pupil funding.